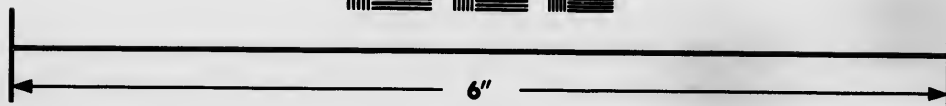
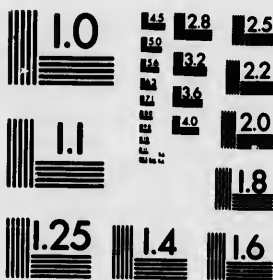


**IMAGE EVALUATION
TEST TARGET (MT-3)**



**Photographic
Sciences
Corporation**

23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503

**CIHM
Microfiche
Series
(Monographs)**

**ICMH
Collection de
microfiches
(monographies)**



Canadian Institute for Historical Microreproductions / Institut canadien de microreproductions historiques

© 1993

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming, are checked below.

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured covers/
Couverture de couleur
 - Covers damaged/
Couverture endommagée
 - Covers restored and/or laminated/
Couverture restaurée et/ou pelliculée
 - Cover title missing/
Le titre de couverture manque
 - Coloured maps/
Cartes géographiques en couleur
 - Coloured ink (i.e. other than blue or black)/
Encre de couleur (i.e. autre que bleue ou noire)
 - Coloured plates and/or illustrations/
Planches et/ou illustrations en couleur
 - Bound with other material/
Relié avec d'autres documents
 - Tight binding may cause shadows or distortion along interior margin/
La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure
 - Blank leaves added during restoration may appear within the text. Whenever possible, these have been omitted from filming/
Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
 - Additional comments:
Commentaires supplémentaires:
- Coloured pages/
Pages de couleur
 - Pages damaged/
Pages endommagées
 - Pages restored and/or laminated/
Pages restaurées et/ou pelliculées
 - Pages discoloured, stained or foxed/
Pages décolorées, tachetées ou piquées
 - Pages detached/
Pages détachées
 - Showthrough/
Transparence
 - Quality of print varies/
Qualité inégale de l'impression
 - Continuous pagination/
Pagination continue
 - Includes index(es)/
Comprend un (des) index
- Title on header taken from: /
Le titre de l'en-tête provient:
- Title page of issue/
Page de titre de la livraison
 - Caption of issue/
Titre de départ de la livraison
 - Masthead/
Générique (périodiques) de la livraison
- This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.
- | | | | | | | | | | | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 10X | 12X | 14X | 16X | 18X | 20X | 22X | 24X | 26X | 28X | 30X | 32X |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

The copy filmed here has been reproduced thanks to the generosity of:

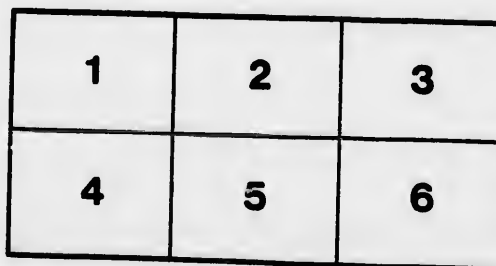
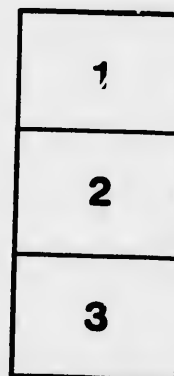
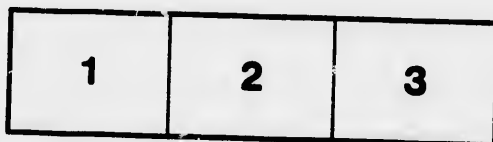
Archives nationales de Québec,
Québec, Québec.

The images appearing here are the best quality possible considering the condition and legibility of the original copy and in keeping with the filming contract specifications.

Original copies in printed paper covers are filmed beginning with the front cover and ending on the last page with a printed or illustrated impression, or the back cover when appropriate. All other original copies are filmed beginning on the first page with a printed or illustrated impression, and ending on the last page with a printed or illustrated impression.

The last recorded frame on each microfiche shall contain the symbol \rightarrow (meaning "CONTINUED"), or the symbol ∇ (meaning "END"), whichever applies.

Maps, plates, charts, etc., may be filmed at different reduction ratios. Those too large to be entirely included in one exposure are filmed beginning in the upper left hand corner, left to right and top to bottom, as many frames as required. The following diagrams illustrate the method:



L'exemplaire filmé fut reproduit grâce à la générosité de:

Archives nationales de Québec,
Québec, Québec.

Les images suivantes ont été reproduites avec le plus grand soin, compte tenu de la condition et de la netteté de l'exemplaire filmé, et en conformité avec les conditions du contrat de filmage.

Les exemplaires originaux dont la couverture en papier est imprimée sont filmés en commençant par le premier plat et en terminant soit par la dernière page qui comporte une empreinte d'impression ou d'illustration, soit par le second plat, selon le cas. Tous les autres exemplaires originaux sont filmés en commençant par la première page qui comporte une empreinte d'impression ou d'illustration et en terminant par la dernière page qui comporte une telle empreinte.

Un des symboles suivants apparaîtra sur la dernière image de chaque microfiche, selon le cas: le symbole \rightarrow signifie "A SUIVRE", le symbole ∇ signifie "FIN".

Les cartes, planches, tableaux, etc., peuvent être filmés à des taux de réduction différents. Lorsque le document est trop grand pour être reproduit en un seul cliché, il est filmé à partir de l'angle supérieur gauche, de gauche à droite, et de haut en bas, en prenant le nombre d'images nécessaire. Les diagrammes suivants illustrent la méthode.

qu'il
le cet
de vue
age
cation
qués



32x

T
Wi

RC
DE

T.S.

nb

36

Hawson

MEMORANDUM

CONCERNING

THE SEIGNIORY OF TERRA FIRMA OF MINGAN,

With special reference to a Report by Mr. Deputy Surveyor
BOUCHETTE upon the said Seigniorv.

ARCHIVES
DE LA
de Québec

p
in
pr
re
pr
an
to
suc
for
tin
per
call
disc
that

like
cons
are c
seign
bound
little
other

MEMORANDUM

*Concerning the Seigniorship of Terra Firma of Mingan,
with special reference to a Report by Mr. Deputy
Surveyor Bouchette upon the said Seigniorship, by
S. E. Dawson, February, 1883.*

When an estate has been the continuous possession of private proprietors for over two hundred years—when it has passed by inheritance, by sale, by deed of gift, by marriage contract, from proprietor to proprietor—when it has been leased, and when rents have been collected during long periods and down to the present time—when, in short, every conceivable mode of transfer and of enjoyment incidental to landed property has been applied to such an estate—and when the legal documents necessary in such cases have been drawn, recorded, and published unchallenged for generations, although many persons were interested in disputing them, it is utterly without precedent that, at so remote a period as this, the very existence of such an estate should be called in question. It has been reserved until the year 1867 to discover that a title dated in 1661 is invalid, and, stranger still, that it never existed at all.

The report of Mr. Bouchette is necessarily voluminous, for, like the special pleading of an advocate, it does not maintain one consistent theory, but covers all possible pleas, even when they are contradictory. If, as is maintained, there never was such a seigniorship as Terra Firma of Mingan, it is lost time to dispute the boundaries of it. If the seigniorship exists in imagination, it is of little consequence whether the Agawanus, the Kegashka, or any other river be its eastern limit. If, as is again maintained, the

rights granted were merely fishing rights, to fish in a part of the Gulf where everybody (even foreigners) used to fish, it is waste of time to discuss the revocation of such rights. Rights which are common to all are of no value—they require no formal grant, and no elaborate revocation. Something more substantial must exist in these rights to call for ninety eight pages of argument. The Report assumes the question at issue, and then argues on the assumption. It speaks of the “pretended Seigniorship of Mingan,” and of the “pretended legal rights” of the Seigniors of Mingan. The *Edits et Ordonnances* are invoked freely when supposed to support the views advanced; but on page 58, those decisions of the Intendants which are “*formal judgments*” elsewhere, become “*police regulations*,” and are held to be of very little importance. The Seigniors of Mingan might well take exception to the special pleading of the report.

Passing, however, from the form to the subject of the Report, it will be best, in order clearly to apprehend the question at issue, to consider it under the following heads:

- 1st.—Was there ever such a seigniorship as that of Terra Firma of Mingan?
- 2nd.—If there was; was the grant revoked?
- 3rd.—Was the grant that of a Seigniorship, or of a fishing license?
- 4th.—What was its extent?

It will be impossible to avoid a little repetition, for the questions overlap each other to a certain extent. For convenience of discussion some such method is unavoidable. It must however, be premised that there are no private persons who claim the land in question. If such there were, they would be barred by the prescription of thirty years. The claim is raised on behalf of the Crown, because in certain cases the rights of the Crown are imprescriptible. Still it must be borne in mind that one single definite admission of the title by the Crown

v
A
o
v
q
in
pi
G
H
m
ho
“ f
“ c
“ t
“ i
“ 1
“ R
“ de
“ Es
“ de
78, J
V
Bouc

would be equivalent to a new title, and, moreover, that the latest of such public recognitions would cover any previous informalities, if such existed, and would bar the Crown forever from disputing the grant, even when the original deeds are lost. It is important to keep this constantly in mind, for it is a clear principle of feudal law, where each investiture is itself a title.

The seigniory in question is thus described in the third volume of Lieut.-Col. Bouchette's *British Dominions in North America*. This volume is properly entitled "*A Topographical Dictionary of the Province of Lower Canada*." The first edition of Col. Bouchette's work was published in 1815, and is in one volume octavo. The second, and latest, edition is in two volumes quarto, with a third volume, sometimes sold separately, for it is indeed a distinct work. No one could be more capable of compiling such a work, for Col. Bouchette was H. M.'s Surveyor-General of Lower Canada from 1804 until his death in 1841. His second edition was published in 1832 and, with special permission, was dedicated to King William IV. to whom he had the honour of presenting a copy in person.

"MINGAN OR TERRA FIRMA DE MINGAN, Seigniory, extends from Cape Cormorant, along the northern shore of the Labrador channel to the River Goynish. Granted February 25th, 1661 to Sieur François Bissot. *From Cape Cormorant to Anse Sablon is the only part now contained in the Province of Lower Canada.*"

Col. Bouchette then gives the following abstract of the title :

"*Title,—Terra Firma of Mingan—Concession du 25me février 1661, faite par la Compagnie au Sieur François Bissot de la Rivière, de la terre ferme de Mingan ; à prendre depuis le Cap des Cormorans à la coté du Nord, jusqu'à la grande anse vers les Esquimaux, où les Espagnols font ordinairement la pêche, sur deux lieues de profondeur.*" *Régistre des Foi et Hommage, No. 78, folio 355.*

Without stopping here to dwell upon the fact that Colonel Bouchette (in the clause of the preceding description which the

writer has put into italics), states that the eastern limit of the seigniory extends beyond *Anse Sablon*, it should be remarked that this seigniory of Mingan is given, and the abstract of title quoted, in Col. Bouchette's work in the same manner as all the other seigniories of the Province. No question evidently existed in the mind of the Surveyor-General as to the reality of the seigniory. Upon that point he was in accord with all his predecessors, and, in fact, with his successors also, until the year 1867. The seigniory is included in all lists of seigniories down to the full and elaborate list prepared by the late Judge Dunkin, who was Counsel for the Seigniors before the Commission for changing the tenure of land in Lower Canada. For the reason which will appear later Judge Dunkin does not cite the record of the title; but he gives *The Company of New France* as the grantor, François Bissot as the grantee, France as the place, and February 25th, 1661, as the date of the grant.

Under ordinary circumstances the deed to Bissot, or the register of it, could be produced; but in this case both perished in two of those fires from which Quebec has suffered so often. The deeds were burned in the disastrous fire of 1682. It is recorded that the whole of the lower town of Quebec,* with the exception of one single house, was then destroyed. In those days, and for a hundred years later, the merchants lived over their warehouses in the lower town. The houses were nearly all built of wood, and, as the fire occurred in August, it spread rapidly. The registers were burned in January, 1713,† when the palace of the Intendant was destroyed. Ferland relates that the Intendant Begon and his wife barely escaped through a window with their lives, and that, besides their private effects, the treasurer's books and nearly all the registers of the Council were burned. These facts were pleaded in a suit before Intendant Hocquart in 1733,‡ and they were not then disputed. In the Report this is called a "supposed destruction,"§ and the seigniors,

*Ferland.—Cours d'Histoire du Canada. Vol. 2, p. 134.

†Ferland.—Cours d'Histoire du Canada. Vol. 2, p. 394.

‡Edits et Ordonnances. Vol. 2, p. 357.

§In Mr. Justice Ramsay's Report on the Boundary Question, at Note 16, it is stated that the register of the Council of New France for the year 1656 is also not in existence.

who made a similar declaration in 1781, are charged with inconsistency in their dates. There is no conflict between the two statements. The first, that of 1733, refers to the fire which destroyed the titles as being *in the lower town*—the second, to the burning of the registers at the *Intendant's palace*. In the Report the two fires are confused, and a specious argument is based upon the confusion. The statement of the seigniors of 1781 is only, as it purports to be, approximate as to date. They use the word "about"; and if sixty years be deducted from 1781, the result, 1721, is within eight years of the actual occurrence. The event was well known, the precise date was not essential, and books of Canadian history were not then, as now, ready at hand for reference. But in the *Acte de Notoriété* of 1766 the precise date is given "dont ils ne peuvent avoir des copies à cause de l'incendie arrivé au Palais de cette ville le cinq. Janvier 1713 qui a consumé les voutes du Palais où étaient déposées les registres." As for the destruction of the original titles, if no other proof existed, these almost contemporaneous public acknowledgements would suffice; but fortunately it can be put beyond all cavil. Not long after the marriage of Louis Joliet and Claire Bissot, François Bissot died, and Joliet was appointed tutor to the minor children. Madame Bissot (née Marie Couillair), married a second husband, Jacques de Lalande, and on the 9th of March, 1684, Louis Joliet rendered account and applied for a discharge from his tutorship. In the *Acte* before Genaple, Notary to the King, Joliet declares: "*Que les titres et papiers dépendants de la dite succession, qui lui avoient été mis en mains, ont été brûlés dans l'incendie de cette basse-ville, comme il a fait a paroître à l'instant par le certificat de Monsieur Duchesneau, cy-devant Intendant de ce pays, écrit en parchemin, et de lui signé et contresigné, Chevalier, en date du neuvième septembre mille six cent quatre-vingt-deux, duquel copie collationné demeure attachée aux présentes, etc.*"

Here, then, is a solemn declaration, only two years after the event, by the guardian of the heirs that the titles were burned, and the excuse is accepted and the guardian discharged. But appended to the same deed is a copy of Intendant Duchesneau's certificate. It is as follows:—

“ JACQUES DUCHESNEAU,

“ Chevalier, Conseiller du Roy en ses Conseils, Intendant de la
 “ Justice, Police, et Finances en Canada et pays de la
 “ France Septentrionale ;

“ Nous certifions que Charles Parlier, marchand, estoit à Mont-
 “ réal, où ses affaires l'avoit appelé, lorsque la moitié de la basse-
 “ ville de Québec fut consumée par le feu ; ce qui arriva la nuit du
 “ quatre au cinquième d'août dernier ; et que toutes les marchandises
 “ qu'il avoit laissées dans la maison où il demuroit en la basse ville,
 “ ont été brûlées, sans qu'on ait pu rien sauver. Et que le dit Parlier
 “ a juré et affirmé devant nous que le Sieur Louis Jolliet avoit laissé
 “ dans la dite maison trois petites cassettes, dans lesquelles estoient
 “ ses papiers qui ont esté aussi brûlées.

“ En témoin de quoi nous avons signé le présent, et iceluy fait
 “ signer à nôtre Secrétaire à Québec, le neufvième septembre 1682.

“ Et ensuite est escrit—Collationné à l'original en parchemin, ce
 “ fait, rendu au dit Sieur Jolliet, cy-dessus nommé. Par moi, No-
 “ taire, garde-note du Roy nôtre Sire, en sa Prévosté de Québec,
 “ soussigné au dit Québec, ce neufvième jour de mars mille six cent
 “ quatre-vingt-quatre, signé Genaple en la dite copie collationné.

“ GENAPLE.”

This certificate of Duchesneau's was granted only thirty-five days after the fire occurred. It is difficult to imagine proofs more absolute. If it could be shown that there were no fires, or that the lower town was not burned, or that no public records were destroyed, it would be more pertinent to the matter in hand than to sneer at statements which in open Court were, one hundred and fifty years ago, unchallenged by opposing Counsel.

The original documents being destroyed, secondary proof is admissible, and among such proofs the trial before Intendant Hocquart is very important. * This took place on May 12th, 1733. The main facts concerning the seigniory are therein

*Edits et Ordonnances, Vol. 2, p. 354.

recited, and if there had been any defect in the title it would surely then have been exposed. The prosecutor of that day does not use such expressions as "pretended seigniors," "pretended rights," "pretended claims." This was to him a very real and actual seigniory, and he institutes a formal action to oust Bissot's heirs from the western portion of it.

In order to appreciate properly the points of this trial, reference must be had to the history and politics of the time, and to the personal qualities of the parties.

François Bissot, Sieur de la Riviere, was a Norman who emigrated in those early days to Canada,* married there in 1648, and became one of the richest and most enterprising merchants of Quebec, his operations were in the †Gulf, from Tadoussac downwards, and the concession he obtained in 1661 originally extended eastward from *Isle-aux-Œufs*. He carried on fisheries of cod, seal and whales, and, with the help of his son, François, established posts, and carried on trade with the Indians towards Hudson's Bay.

Louis Joliet, whose claim, as against LaSalle, to be the discoverer of the Mississippi, is still a moot point with historians, after his return from his celebrated western explorations, married, on October 7, 1675, Claire Bissot, and thenceforth threw his abundant energies in the direction of his father-in-law's schemes. With a view to opening up trade, he made, shortly after his marriage, an expedition to Hudson's Bay, by way of Lake Temiscaming, and fell into the hands of an officer of the, then recently established, Hudson's Bay Company. Though born and brought up in Quebec in those early days, he was a well-educated man. He could converse with the Hudson's Bay officer in Latin, and they became very good friends; so much so that, in after years, Joliet's enemies accused him of trading with the English.

* Sulte—Vol. 3, page 11.

† Pierre Margry in Vol. 9, *Revue Canadienne*.

The trade with the Indians in the direction of Hudson's Bay was a royal reserve, known in French times by the name of the *Domaine du Roi*, and later by that of the *King's Posts*. It was carried on from Tadoussac, up the Saguenay and its tributaries, and Bissot and Joliet were interlopers. But they belonged to a powerful clique, favoured by the Intendant, Duchesneau, and opposed to the Governor, Frontenac, who was a friend of LaSalle. In this clique were Aubert de la Chesnaye and the Sieur Leber, of Montreal, the wealthiest merchants of the country, and in spite of the complaints of the agents of the King's Farmers-General, Joliet would interfere with the trade which properly belonged to the *Domaine du Roi*. This he could easily do from Isle-aux-Ceufs, the extreme western limit of Bissot's seignior. Boisseau, the agent of the Farmers General, had one of *Joliet's vessels seized; but, in spite of his remonstrances, the Intendant released the vessel, and contented himself with an *ordonnance* forbidding Joliet to interfere with this trade. Later on, he issued a second *ordonnance* to the same effect, and, in a third, he inflicted a fine on Joliet and confiscated his vessel. For all that, the Farmers-General continued to complain of his operations.

In 1678 the Intendant sent to France, dedicated to Colbert, a map of Canada. It is drawn by Franquelin, and is of little value geographically because those explorations which were to render the French name famous had only just commenced. La Salle was still in the West; Joliet had just returned. He had not received his concession of Anticosti. The Isles of Mingan were not conceded, and Joliet had not commenced those voyages which settled the geography of the Labrador coast. The map is nevertheless of importance, because it accompanied a *Papier Terrier* which was sent to France at the same time. Upon it is laid down extending between Isle-aux-Ceufs and the Bay des Espagnols, in large letters upon the main land, "*Seigneurie du Sieur Bissot*," Not "fishing rights of Sieur Bissot." not "Post of Mingan of Sieur Bissot," for Mingan is not laid down at all, but

* Pierre Margry.—Vol. 9, Revue Canadienne.

Seigneurie du Sieur Bissot. Duchesneau probably knew what a Seigniority meant. Fishing rights had not commenced at that time to be granted, and besides if they had been it is absurd to suppose that they would have been entered upon a *Papier Terrier*.

In 1679 the Intendant Duchesneau conceded to Louis Joliet, and to Lalande, (Madame Bissot's second husband), the Seigniority of the Isles and Islets of Mingan; and, in 1680, to Louis Joliet the Island of Anticosti was granted, so that in the Bissot and Joliet families all the trade of the North Shore centred. The male descendants of Bissot moved afterwards to the Illinois country, and founded the settlement now Vincennes in Indiana. Bissot de Vincennes took part in the settlement of the Ohio and Illinois valleys. The female members of the family and the Joliet connection continued to carry on their operations in the Gulf in their Seigniories, which extended, opposite to each other, along the North Shore. These circumstances, if borne in mind, will throw a flood of light upon the trials and disputes which must now be discussed.

Bissot and Joliet had been long dead, when in 1733, François Etienne Cugnet, the representative in Canada of the Farmer-General Carlier, summoned the heirs Bissot before Intendant Hocquart to exhibit their titles. In defence appeared Bissot's son and Joliet's daughter, among other heirs. The object of Cugnet was to re-annex to the *Domaine du Roi* that portion of the Bissot Seigniority, extending from Isle-aux-Ceufs to Cape Cormorant; and thus remove to a distance people who had always troubled the Farmers of the *Domaine*. His demand extends only to the land west of the Moisie. The heirs pleaded the concession of 1661, which commenced at Isle-aux-Ceufs. They pleaded the loss by fire of the original documents, and that their title was admitted in an *Acte de Foi et Hommage* made on the 10th of February, 1668. This Act of *Foi et Hommage* is certified to by the Bailiff of the *Conseil Superieur* as then existing of record.

Cugnet did not dispute their title. He claimed that all the trade of the River Moisie and westwards to Isle-aux-Ceufs belonged to the farmers of the *Domaine* under various *Ordon-*

annees, which he cited, and he demanded that the Farmer-General be maintained, "en son droit, de faire seul, à l'exclusion de tous autres, la traité, chasse, pêche et commerce dans l'étendue du dit Domaine du Roi depuis l'Isle-aux-Coudres jusques et compris la dite Rivière 'Moisy.'" He distinctly admits that a concession was made of the territory in question, and, in order to induce the Seigniors to make a voluntary abandonment of it, he offers them a remission, not only of the unpaid dues on that portion, but also of the unpaid dues upon their establishment at Mingan. His words are: "Si mieux ils n'aimoient se désister de la concession en question et consentir à la réunion au domaine de la Seigneurie de l'Isle-aux-Ceufs." The formal judgement of the Intendant rennites to the King's Domain: "le dit terrain concédé au dit Sieur Bissot depuis et compris la dite Isle-aux-Ceufs jusqu'à la Pointe des Cormorans qui est à quatre ou cinq lieues au-dessous de la dite Rivière Moisy."

If then the *seigneurie*, as pretended in one portion of the Report, extended only from Isle-aux-Ceufs to the *Sept Isles* there would be no need of re-annexing to the *Domaine* the land between *Sept Isles* and *Pointe aux Cormorans*. And again, if the Seven Islands were the limit of the *Seigneurie* the trade of the *Moisie* was already in the *Domaine*, for the *Moisie* is east of the Bay of Seven Islands, and, being on that theory outside of the *Seigniorie* required no judgement to re-annex. Then again, it is clear that the question is one of a real seigniorie or what can be the meaning of the words "*abandon du terrain concédé?*". They cannot refer to a license to fish. And again, if the post at *Isle-aux-Ceufs* was seigniorial, why should it be improbable that the post at *Mingan* was seigniorial?

Cugnet further requested, in that same trial, that the Bissots should be ordered to take out a *new title* for the "établissement" made by them at *Mingan*, "commencing from Cape Cormorant to the Baye des Espagnols." *Mingan* must have been something more than the fishing station which another portion of the report asserts it to be, because, whatever may be the location of the

Ba
eig
iti
par
mi
titr
trian
ask
ent
Cug
tak
wor
exp
Bay
prev
a no
to r
seem
gran
aux-
jump
licen
fishin
des I

T
seign
suit h
had l
the S
and I
down
merch
the s
Peyre

Baye des Espagnols, Cape Cormorant and Mingan are distant eighty miles upon the map. The heirs acceded to the proposition and asked for a new title. If no *seigneurie* existed both parties would not have concurred in asking for a *new* title. They might have asked for a *title* or a *concession*, but the words *nouveau titre* imply that there existed an *old* title, which all parties to the trial never seemed to think of questioning. If the heirs had asked for a *title* it might even be imagined that Cugnet, representing the Farmer-General, would have had no objection; but Cugnet makes it part of his *original demand* that the heirs shall take out a *new* title. What object could he have in using such words if the Bissots had at that time no title? The only rational explanation of the demand is, that as the title extended from the Baye des Espagnols westwards to Isle-aux-Ceufs, he wished to prevent any further trouble to the Domaine by the substitution of a new Western boundary at Cape Cormorant. It will be necessary to revert to this again. It may only be noted here that Cugnet seems to have had no notion that he was dealing with a hybrid grant—part seigniorly and part fishing license—that from Isle-aux-Ceufs to Seven Islands it was seigniorly, then there was a jump of one hundred miles to a fishing post at Mingan, and then a license to fish in a bay where even foreigners were in the habit of fishing. The whole trial shows that from Isle-aux-Ceufs to the Baye des Espagnols, the tenure, whatever it was, was of the same nature.

The undisturbed possession by the heirs Bissot of this seigniorly is incidentally proved in 1725 by the record of another suit before Intendant Begon. *A merchant of Quebec—Gastin—had leased from the seigniors three fiefs on the South Shore of the St. Lawrence, viz., Grand Vallée, Rivière de la Madelaine, and L'Anse du Grand Etang. While he was preparing to send down men to establish fisheries, he learned that two other merchants, Peyre and Becquet, were fitting out a schooner for the same place, and he applied for an order to restrain them. Peyre pleaded that the cod fishery was open to all, and that he

* Edits et Ordonnances Vol. 3, p. 221.

had an Admiralty license ; to which Gastin replied that the question was not of fishing, but of the occupation of the beach for drying fish. To which Peyre replied as follows :—

Que si la prétention du Sieur Gastin avoit lieu, il n'y auroit plus que très peu de personnes qui puissent faire la pêche de la morue, parceque la côte du sud du fleuve St. Laurent, se trouvant avoir été concédée à quelques anciennes familles, celles du nord étant de la ferme du Roi, les Iles de Mingan, Anticostye, et *Terre Ferme vis-à-vis icelles, jusqu'aux limites de la dite ferme, appartenant aux familles des feu Sieurs Joliet et Bissot. &c., &c.*, he argues that the resort of fishing vessels was really an advantage rather than a detriment to the owners of the "fiefs," as it brought people around them. The points to be observed in this trial are—the public recognition by the people of Quebec of the seigniories of the Bissot and Joliet families—their recognition as seigniories of the same nature as those on the South Shore, and the special reference to the seigniorie of Terra Firma of Mingan as extending opposite to that of the Isles and Islets up to the limits of the King's Domaine. The Intendant, *with the consent of the parties*, permitted Peyre, *for that year*, to have the use of a portion of the beach of one seigniorie as he had already men on the ground.

In 1736, the seigniorie came again into Court. The post at Mingan had been leased to the Sieur Volant d'Handebourg, by the Bissot and Joliet heirs, and the lessee complained that *Martel de Brouage was preparing to go down and entice away the Indians who traded at Mingan, and induce them to go to Labrador and trade. De Brouage replied that he did not intend to trade excepting on his own concession, and on that of La Valterie. The Intendant prohibited De Brouage from trading in any concession but his own, and in the one he had leased from La Valterie. The title of this Judgement is, "*Jugement sur la requête des seigneurs et du Fermier de la seigneurie et terre-ferme de Mingan.*"

* Edits et Ordonnances, Vol. 3, page 315.

It should be observed that this case came before Hocquart—the same Intendant who reannexed to the *Domaine du Roi* the western portion of the seigniority in 1733. If the *Sieur de Brouage* had been as familiar with that trial as the writer of the Report in 1867, he would have replied that the *Bissots* never had a seigniority, and that, three years before, the same Judge he was pleading before had reunited their non-existent seigniority to the *Domaine*. If the *Bissot* and *Joliet* seigniority of *Terra Firma* had no existence, the Intendant, or *De Brouage*, or somebody in Quebec would probably have been aware of it after the trial of 1733, but on the contrary the property has been shown to have been enjoyed in the most absolute manner down to the year 1736. Twenty-three years later Canada was conquered, and, in 1763, it was ceded to Great Britain.

In that year the King issued a proclamation altering the boundaries of the Province of Quebec, and fixing its eastern boundary at the River St. John; thus the *Terra Firma* of *Mingan* was divided into two almost equal parts, and the eastern part came under the English law of Newfoundland. The regulations of a statute 10 and 11, William III. were then attempted to be enforced, and the same confusion as to rights and tenures reigned on the Labrador Coast as at Montreal and Quebec, until the Act of 1774 (known as the Quebec Act) placed these matters on a firm basis. The state of the Coast, and the principles which the Imperial Parliament adopted in the final settlement are well stated by Chief Justice Reeves of Newfoundland, who wrote in London in 1791, with the archives of the Board of Trade before him.

*“ Sometime after it appeared to the Board (of Trade) that
 “ the forcing of these rules and regulations, in order to throw
 “ open the fisheries there to adventurers from Great Britain, was
 “ not a wise policy. They were calculated only for a cod or
 “ whale fishery, whereas the seal fishery, which was the most
 “ pursued there, was a sedentary fishery, and needed the

*Reeves—History of Newfoundland, pp. 134-5.

"encouragement of exclusive property to support the expense
 "of the adventure. They, therefore, on the 24th of June, 1772,
 "recommended to His Majesty that the Coast of Labrador should
 "be re-annexed to the Government of Quebec. This would
 "certainly put an end to the disquietude under which persons
 "laboured who had private property there, which the law
 "exposed to the operation of Stat. 10 & 11, Will. III. This,
 "however, does not seem to be the reason for the Board recom-
 "mending such a measure; for, being called upon to reconsider
 "their opinion as to the re-annexing of the Coast of Labrador to
 "the Government of Quebec, they said, that it was not in con-
 "sideration of the loss which individuals would sustain if private
 "property was disturbed, but, they said, *when it appeared to them*
 "*that a great part of the Coast was claimed as private property,*
 "*under grants from the Governors of Canada, and that His Majesty*
 "*was bound by treaty to admit these claims; they thought he could*
 "*not, in justice, enforce regulations that were subversive of these*
 "*rights. According to this principle here laid down, the Quebec*
 "*Act, Stat. 14, Geo. III., Cap. 53, annexed to that Government all*
 "*such territories, islands and countries as had since the 10th of*
 "*February, 1763, been part of the Government of Newfoundland,*
 "*and they were so to continue during His Majesty's pleasure."*

The passage in italics, with the clause in the Act itself, dis-
 poses of the theory that the French tenures were in any way
 affected by the change of sovereignty. So little did this notion
 obtain at the time that, in 1772, Thomas Dunn purchased of
 Marie Bissot, widow of François Vederique, one-fourth share in
 this seignior, which she had inherited from her father, François
 Bissot, and, upon this transfer, the Crown received the "*quint*"
 due under seigniorial law, and put Mr. Dunn into possession. All
 the particulars of the title, the loss of the deeds, and the undis-
 turbed and immemorial possession had in 1764 been publicly
 recorded in an Acte de Notoriété published and registered in
 the year 1766. Mr. Dunn was one of the Judges of the Preroga-
 tive Court of Quebec, and in a position to know all the facts, as
 well as the law, of the case. The Acte de Notoriété was signed

by twelve old and well known citizens of Quebec, besides the heirs, and establishes the notoriously immemorial title of the seigniory of Terra Firma of Mingan in the heirs Bissot, at that time, in a way which cannot be got over.

Five years after, in 1777, Mr. Dunn purchased the share of D'lle Belcour de Lafontaine, daughter of Charlotte Bissot, and in 1779 William Grant bought at Sheriff's sale, the rights of Charles Joliet d'Anticosti in the same seigniory. In 1781 a son of Charlotte Bissot sold his share to Francois Joseph Cugnet. This Mr. Cugnet was an eminent jurisconsult of Quebec. He had been *Conseiller au Conseil Supérieur* under the French *Régime*, and Attorney-General, under Governor Murray's Council. He is known as the writer of the earliest published law-book in Canada. His "*Traité des anciennes Loix, Coutumes et Usages de la Colonie du Canada*," was printed at Quebec in 1775. This sale took place on the 12th October, 1781. On the 28th of May preceding, the seigniors rendered *Foi et Hommage*. This Act is entered upon the Register, but is objected to in the Report because it was not signed by the Governor. Why it was not signed, nowhere appears; but Mr. Cugnet, who was in a position to know, did not hesitate five months after to purchase a share in the property.

In 1784 a number of persons, heirs of Claire Bissot, sold their interests to Thomas Dunn and to Peter Stuart. The same purchasers, in conjunction with William Grant, bought out Mr. Cugnet's shares in 1786, and thus acquired the whole property. In 1789, a notarial adjustment of these interests was made.

In 1803, an official list of the Seigniories of Canada was published by Vondenvelden and Charland. This list contains the Terra Firma of Mingan. There was a map published at the same time to illustrate that list, and a reduction of this map is appended to the Report under consideration; * and there, upon it, is laid down plainly, extending from Cape Cormorant beyond the edge of the map (so that the eastern boundary could not be shown), "*Part of the Seigniory of Terra Firma of Mingan.*"

* Report by Mr. Bouchette on the pretended legal claims of the Seigniors of Terra Firma of Mingan.

Now this map is a very important one, and the reproduction of it, with the Seigniorship of Terra Firma laid down, as a seigniorship, is very satisfactory; but the title of the map is too much curtailed by Mr. Bouchette to show its full value. The proper title can be found by any one, not having access to the map, in Mr. Faribault's Catalogue. It is as follows:—

“ * Topographical Map of the Province of Lower Canada, compiled from all the former as well as the latest surveys; taken by order of the Provincial Government, by and under the direction of Samuel Holland, Esq., deceased, late Surveyor-General of the said Province. Dedicated to His Excellency Robert Prescott, Esq., Captain-General and Commander-in-Chief of the Provinces of Upper and Lower Canada, &c., by William Vondenvelden, lately Assistant Surveyor-General, and Louis Charland, Land Surveyor. Published by W. Vondenvelden, London, 1803.

The official value of the map is sufficiently evident by the title, but there are two notes upon it which are omitted in the Report, but which have an important bearing, as showing what was the tenure of the properties laid down and also the confirmation by the English Government of the old French grants.

“ NOTE 1st.—*The Seigniorships of the Province, being French grants, have originally been conceded, and since the conquest, they have remained, and still continue, under the feudal tenure.* All lands, on the contrary, lately granted by the English Government in the several townships here laid down, are held in free and common soccage.

“ NOTE 2nd.—The townships in the District of Gaspé have been laid out in the year 1786, without regard to the ancient grants, and part of the lands, in most of them, have been granted, and are now held, under occupation certificates by Acadians refugee loyalists and disbanded soldiers. Two of

* Catalogue d'Ouvrages sur l'Histoire de l'Amerique, &c., &c., par G. B. Faribault, page 193. Map in King George III. collection in the British Museum.

"these tracts have since been claimed under the old titles, namely, Cloridon and Port Daniel, both of which have been purchased by the Government from the proprietors."

The passages in italics are important. On turning to the book which accompanied the map the title will be found as follows:—"Extraits des Titres des anciennes concessions de terre en fief et seigneurie, faites avant et depuis la conquête de la Nouvelle-France par les armes britanniques, dans la partie actuellement appelée le Bas-Canada; tirées des registres déposés au bureau du Secrétaire de la Province, et par cet officier certifiés véritables: pour servir de références aux seigneuries respectives posées sur la carte topographique de la dite Province du Bas-Canada; avec permission dédîée à Son Excellence Robert Prescott, écuyer, Capitaine-Général et Gouverneur en chef des Provinces du Haut et du Bas-Canada. Le tout compilé par William Vondenvelden, ci-devant assistant Arpenteur-Général de la Province susdite, et Louis Charland, Arpenteur Provincial en icelle, Québec. Imprimés par P. E. Desbarats, rue de la Montagne, 1803."

The passage in italics shows that the map and the book are to be taken as one document and one of the highest authority. On turning to the list of titles at No. 90 is found the following:

"*Terra Firma of Mingan.*—Concession du 25e février 1661, faite par la Compagnie au Sieur François Bissot de la Rivière; de la Terre-ferme de Mingan; à prendre depuis le Cap des Cor-morans à la côte du Nord, jusqu'à la Grande Anse vers les Esqui-maux, où les Espagnols font ordinairement la pêche sur deux lieues de profondeur."

In the same year the North-West Company leased a portion of the seigniorie from Messrs. Grant, Dunn and Stuart; and their successors, the Hudson's Bay Company, continue to pay rent to the proprietors down to the present day.

In 1806, the Attorney General claimed, for the Crown, the mutation dues of one fifth on these transfers of the Bissot-Joliet heirs. A skilful French lawyer was employed to arrange the

reproduction
of a seigniorie,
which curtailed
each title can
be seen in Mr. Fari-

Canada, com-
menced; taken
over the direc-
tion of the
Governor-General
Robert Prescott,
Chief of the
Department of
William Vonden-
velden and Louis
Charland,

presented by the
map and the book
which accompanied
it, showing what
the confirm-
ments.

such grants,
they have
All lands,
Government
free and

espé have
the ancient
have been
indicated by
Two of

complicated interests. He drew up a detailed account of the three seignories of Anticosti, Islets of Mingan, and Terra-Firma of Mingan; and the Crown received the seigniorial dues on all.

Finally, in the year 1837, an Act of *Foi et Hommage* was rendered to Lord Gosford, as representative of Queen Victoria, full, complete and formal, in every respect, stating in detail the main facts concerning the limits and tenure of the fief of Terra-Firma of Mingan, accepted and signed by the Governor as representing the Queen, and now of record in the Archives of the Province. This alone is sufficient title as against the Crown, nor need the proprietors go back of this. It is in itself deed, grant, title, to all the property described therein, in so far as the Crown is concerned, and would cover any defect of title, if such had existed.

The history of Mingan as a Seigniority terminates, as did that of the other Seigniorities of Lower Canada, in the Act of Parliament 19th Vict., Cap. 53, and in the Cadastres of the Commissioners for changing the tenure. In these documents it is mentioned, and the tenure is changed, as in the case of all the other seigniorities. The people who had to deal with it for over two hundred years were above the average in intelligence and yet there is no vestige of a record of a doubt concerning it. Merchants, Jurisconsults, Judges, Attorneys General, Surveyors, Surveyors-General, officials of all grades up to Governors-General have dealt with it as a seigniority. Questions as to the eastern boundary must have arisen, but never, until the year 1867, did any question arise as to its existence.

The second question—was the grant ever revoked? will not require a long discussion because it is really answered under the first head. It is, however, convenient here to group together some considerations which would have confused the previous statement:

It cannot be denied that the French King had, and sometimes exercised, the power of revoking concessions. Instances are recorded, and several *Edits et Ordonnances* were issued, stating

and putting into effect these powers. What is denied is that the King did revoke the grant. The grant is proved—the revocation must also be proved. A date must be given. The name of the King, Governor, or Intendant who pronounced it must be disclosed. The Governor Beauharnois and the Intendant Hocquart wrote as follows, in 1734, to the Seminary of Montreal upon this subject.

* "The penalty of re-union to His Majesty's Domaine, in default of actual settlement on the grant within a year and a day, is not to be taken literally. It is known that it can only take place after some years; and the Governor and Intendant alone can pronounce the re-union, by virtue of the decree of the Council of State of the 6th of July, 1711, recited and confirmed by a later decree of King's Council of the 15th of May, 1732." To this the formality of the proceedings bears witness; when, in the year preceding, the Farmers General extorted from the Bissot heirs the territory from Isle-aux-Chefs to Cape Cormorant. The Report relies upon that judgment of Hocquart to prove a revocation, but it has been shown to be, in reality, a confirmation of the seigneur's rights to the remainder not taken. If there had been a revocation, or if a new title to different limits had issued, that same Intendant Hocquart would have known it, and would not, three years later, in 1736, have warned De Brouage off from trading on that territory upon the petition of the same heirs. Revocations of title were not done in a corner. In such a small community as that of Quebec, in French times, such public judgments were known to everybody. It is plain that the Bissot heirs still held the property, and warned off all intruders; nor is there the least indication of anyone questioning their rights.

But, argues the Report, there was no grant at all for that portion east of Seven Islands. This is one of the inconsistent pleas which abound in that long document. It would have been better to have made that point first; and then all questions of revocation, or of boundary, would have been unnecessary. Let

* Correspondence relative to Seigniorial Tenure, page 30.

any one take the map of Canada and follow down along the river from Coteau du Lac to the Straits of Belleisle along the North Shore (as also on the South Shore.) He will find a continuous chain of grants, until he comes to the *Domaine du Roi*, which was bounded by Cape Cormorant on the East. From that point to the Kegashka, the Report would have us believe, there existed a long interval of unconceded land. At the Kegashka commenced, as shown on the last map in the Report, a series of short leases of nine or ten years. This territory of Terra Firma of Mingan then was without owner. If it was ever granted to private persons, other than Bissot, the name of such person, or some faint indication of a claim, should be shown. If it belonged to the *Domaine du Roi*, the Farmers-General, who rented that *Domaine*, would have been aware of it. It is too good a fishing territory to have gone without an owner. That it did not form part of the *Domaine* is absolutely certain; for, eleven days after the judgment referred to, upon the 23rd of May, 1733, the Intendant and the Governor Beauharnois* issued an ordonnance defining the limits of the *Domaine*, and fixing the Eastern boundary—"jusqu'à la Pointe ou Cap des Cormorans."

This boundary is also established by a map in the Archives of the Marine, at Paris, entitled, 'Carte du *Domaine du Roy en Canada, dédiée à Monseigneur le Dauphin, par le Père Laure, Jésuite, missionnaire de ces endroits,*' and dated 1733, the year of these judgments. At Cape Cormorant are the words "*Borne du Domaine,*" and a few miles beyond, to the eastward, is the word "*Mingan,*" The map extends only to fifty miles east of the Cape, and consequently the word *Mingan* could not mean *Mingan* harbour or island which are over one hundred miles east of Cape Cormorant. Moreover the word "*Mingan*" is upon the mainland, not upon the shore and can mean nothing else than the seigniory of that name. It is a most important document because it was made at the time of the trial under consideration. It proves the correctness of the views herein advanced concerning

* Edits et Ordonnances, Vol. 2, page 358.

the partial re-annexing of the seigniority to the *Domaine*, and it establishes, of necessity, the proprietorship of the untouched remainder.

To the third question.—What was the nature of this grant? the answer is easy. It is really answered with the first question and with the fourth. In the whole history of Feudal Tenure when was *Foi et Hommage* ever rendered for a trading privilege? The idea is repugnant to the fundamental notion of feudal institutions. The form of words is inconsistent with it. The noblesse of France could not, without degradation, engage in trade; and, although the King permitted it in Canada because of the want of occupation for the noblesse there and the difficulty they had in obtaining an income in any other way, the forms of tenure and titles were feudal, and *foi et hommage* could only be rendered for land held in *feu*. The Company of New France governed as a proprietary government, and was constituted by Richelieu to that very end. It replaced, in 1628, the commercial company which had looked upon Canada as merely a place for trade; and, by this company,* according to Sir Louis Lafontaine who presided in the special Court to which was referred all questions concerning Seigniorial tenure, the feudal tenure was first introduced into Canada. Higher authority could not be for such a statement. The most important grants in Canada were made by this company, that of Montreal for instance. Two years after the concession to Bissot the royal government was established, but the titles of the company were in full fief. Besides, it has been shown that mutation fees were paid to the Crown. When was there ever imagined a mutation tax on a license to trade or fish? Or when did such licenses pass by inheritance from generation to generation without renewal or dispute?

The Intendant Duchesneau supposed it was a seigneurie in 1678, and as such it has been bargained for and sold for two hundred years. As early as 1709, Jean Baptiste Bissot (known better as Bissot de Vincennes,) sold to François Brissonnet of Montreal his

*Seigniorial Decisions, 1856.

share in the property. Is it likely that, in such a community as French Canada, such properties would not be well known? The Sieur de Vincennes was then settling in the West, but he found a purchaser in Montreal for his undivided share of his father's estate. He is careful to reserve a right of refusal, in case Brissonet should want to resell. Men are found in Montreal as witnesses:— Claud St. Olivier, apothecary, and René Alary, carpenter. The notary, LePailleur, draws up the deed: it is registered and *paraphé* by Begon. And these men, living at the very period, are supposed to have been dealing with an imaginary property, of which the superior acumen of 1867 first discovers the non-existence!!!

Before entering upon the discussion of the fourth question, it will be advisable to consider some points raised in the Report, which do not fall under the four heads of this memorandum; and, first, the question of the bearing of the Seigniorial Commission upon the status of "Terra Firma of Mingan."

It is conclusively laid down in the Report that the declaration of the Commission does not constitute a title to this, or to any seigniority. A proposition so clear hardly required a legal opinion to support it. The Commissioners were appointed to change the tenure of the land, and not to make grants. They could not add to the extent of a seigniority by their declaration, and, consequently, they could not detract from the extent of a seigniority. As stated by the Law Officers of the Crown quoted in the Report: "En un mot, le but de la loi est de changer la tenure, et non de régler et établir les lignes de division d'un seigneur avec un autre qui lui est limitrophe." Nevertheless, as "Terra Firma of Mingan" is in the cadastre along with all the other seigniories, there is a presumption that it is a seigniority; for the Commission was not appointed to change the tenure of licenses for fishing, or for trading with Indians. The cadastre could not move the boundary of the property one inch to the westward or to the eastward; and, excepting so far as the presumption aforesaid, it has no bearing on the case. In this one

single instance, the Commissioners may have enlivened their arduous labours by calculating the value, per arpent, of a license to catch fish on the main land of Mingan. The boundaries, however, of the thing, whatever it was, are not affected by the cadastre. Beyond the public acknowledgment of the tenure, both in the report of the Commission and the statute based upon it, the action of the Commissioners has had no bearing on the question. Of course, as defining the tenure by which the property is now held, the statute is paramount. The question of boundaries now suggests itself, and before entering upon that it is convenient here to consider the maps appended to the report.

Map A is Vondenvelden & Charland's map which, as we have seen (page 16) establishes the position of the seigniors. It can reveal nothing about the eastern boundary, however, for their line runs to the border of the map, and the lettering states that the land designated is only "*part of the Seignior of Terra Firma of Mingan,*" just as, opposite to the shore, is inscribed "*part of the Seignior of the Isles of Mingan*"; although it may be observed that all the islands now called Mingan are well within the range of the map.

Map B is an English map published by Mitchell in 1755, and therefore before the conquest of Canada. It does not, of course, contain any indication of this or *any other seignior*. It is given in order to show that a group of the Mingan Islands was called the Esquimaux Islands, and that this group was indicated in the phrase "*vers les Esquimaux*" in the title. Upon this point, Admiral Bayfield remarks, "Clearwater Point, which is 14 miles westward of St. Genevieve, * projects out so as to interrupt the continuation of the chain of islands, and thus separates them into two divisions, the easternmost of which has been called the Esquimaux Islands, a name which should be confined to the island properly so called in the western division." That this opinion is correct can be seen on consulting the old French

* St. Lawrence Pilot, page 185.

maps which do not make this mistake; for instance, Charlevoix, map drawn by Bellin in 1744. The Company of New France in 1661 had not the advantage of consulting Mitchell's map of 1755, nor DesBarre's of 1780, nor le Maréchal des Castries' of 1784. Another point proposed to be proved by this map is that the *Anse* of the title is the bay formed by Long Point on the west and Clearwater Point on the east. Now, as the writer of the Report has argued (on p. 41) that the *jusqu'à* of the title means "to" or "as far as," it follows, on this theory, that the post of Mingan was not in the grant at all; because the Mingan settlement is eight miles to the eastward beyond Long Point on Vondenvelden's map.

But this theory will not do with Vondenvelden's Map, for that shows the seigniory stretching as far to the East as the map extends, so the same maps are made to show that Mont Joli, or Natashquan Point, is the Eastern boundary of the *Grande Anse* in question. The writer of the report observes that "the coast trends Northwards," an observation which is not verified by his maps; and his second theory fails, as does the first, to bring Mingan within the boundaries of the grant. To repeat, all the argumentation on these maps is based upon the assumption that the *Grande Anse* commenced on the West at Long Point. Therefore, as the grant was *jusqu'à la Grande Anse*, it terminated on the East at Long Point. But Mingan is eight miles east of Long Point, and could not on that theory have been in the grant. Now the report admits that it was in the grant. Again, the Eastern boundary of the *Anse* is, on page 42, at Clearwater point; and, on page 43, at Natashquan Point; but, on page 67, the Eastern boundary of the grant is supposed to be at the Goynish, "in order that it may not overreach the *Grande Anse*," but the Eastern boundary of the grant is insisted, on page 41, to be "up to" *jusqu'à la Grande Anse* while the Goynish boundary overreaches Grande Anse No. 1 by one hundred and twenty miles on the chart, and runs into Grande Anse No. 2 by the whole additional distance between Long Point and Clearwater Point.

Map C.—This is a remarkable document; and a page and a half of the Report is devoted to it. The point to be demonstrated

ARCHE
DE
Province d

is that the "Esquimaux," which by maps A and B were shown to be *islands*, were in reality *Indians*. The writer of the Report attaches much value to this map. He says "Sieur de Champlain in his map entitled "Le Canada 1664," &c, &c; and, again, "this map of Champlain as contemporary with the period of the concession." The "Esquimaux" in the title of the Seigniority could not have been both Indians and Islands; but, putting that question aside, the map is remarkable, for Champlain must have made it thirty years after his death. The title upon it, in the Report, is misleading by its simplicity, "Le Canada faict par Sieur de Champlain 1664." The real title of the map explains the difficulty. It is—Le Canada faict par le Sr de Champlain; où sont la Nouvelle France, la Nouvelle Angleterre, la Nouvelle Hollande, la Nouvelle Svede, la Virginie, &c. Avec les nations voisines, et autres Terres nouvellement decouvertes—suivant les Mémoires de P. du Val Geographe du Roy à Paris, En l'Isle du Palais—Avec Privilege 1664. Champlain real maps contain no such names or divisions as this, but the "Esquimaux," who at that date were Indians, are given where they really were, on the Labrador Coast east of Great Meccatina and close to what is now Esquimaux Bay.

Map D is given as conclusive authority for another theory concerning the *Grande Anse*. It is stated to be "published at a very early period of the discovery of the Gulf of St. Lawrence " by the celebrated geographer and discoverer 'Sieur de Joliet " himself." Now this is simply not the fact. The map bears upon it [in the original at Paris] the words "*Jouannes Ludovicus Franquelin pinxit.*" In this case also, the full title of the map dissipates the false impression made by the tracing. It is "Carte Gulle de la France Septentrionale contenant la *decouverte* du "pays des Illinois *faite* par le Sieur Jolliet." It was drawn by Franquelin, then, and long after, Geographer to the King in Quebec, for the Intendant Duchesneau, and dedicated by the latter, to Colbert, to whom it was sent. The story of this map is given in the grant of Anticosti* to Joliet; as follows:

* English Ed of Seigniorial Titles page 420.



“ We, jointly with Monsieur le Comte de Frontenac, &c., and in consideration of the discovery which the said Sieur Joliet has made of the country of the Illinois, whereof he has given as the plan on which was drawn the map which we sent “ two years ago to Monseigneur Colbert &c, do give, grant &c.” The date of the grant is March, 1680—the map was, then, made in 1678 at latest. It was sent to France solely to illustrate “ la *decouverte* du pays des Illinois *faite* par le Sieur Joliet,” and contained, as to the rest of the country, only the current geographical information already in Franquelin’s hands. The map was not made by Joliet—the discovery was. Joliet returned from the Illinois and married Claire Bissot in the fall of 1675. He then went to Hudson’s Bay. In 1679 his map of Hudson’s Bay was drawn. It was not until 1681 that he went down to the Gulf and began those voyages which made him familiar with the geography of the mouth of the St. Lawrence; and it was not until after Franquelin’s death that he was made Geographer to the King at Quebec. The map in question was made and sent to France at least two years before Joliet had been down the Gulf. A glance at this map and comparison with Bayfield’s chart will show its great inaccuracy and the impossibility of basing upon such a rough sketch the boundary of a property. There really is no “Grande Anse” or “Great Bay” there, to which Spaniards could resort to carry on their fisheries. From Natashquan to Cape Whittle is the most dangerous and unsheltered part of the coast. But it does demonstrate one point very satisfactorily, and that is, that Franquelin supposed the Baye des Espagnols to be *well to the eastward of the Natashquan River*. We shall see in another place where Joliet supposed it to be.

Map E is Jeffery’s map. It is given to show the position of Phillipeau Bay. It shows, however, as well Spaniard’s Bay—Baye des Espagnols, where also it is given by very many authentic maps, far up in the Straits of Belleisle.

Map F is De Barre’s map, 1780, and map G is le Marechal de Castrie’s, which do not seem to have any special object. DeBarre’s gives the Esquimaux Islands among the Mingans.

Lieut-Col Bouchette's map of 1815 follows. It shows the Seigniory of Mingan, and is supposed to prove that its eastern boundary was at the Goynish; but an inspection of the original map, as well as the tracing, proves more; for the line on the east does not turn down. The boundary on the east is left open and uncertain; which proves that the property went at least as far as the Goynish; and how much farther Col Bouchette was not prepared to lay down.

The last map given is a reduction of Bayfield's Admiralty Chart. It is valuable to the Seigniors, because the writer of the Report has portrayed upon it a long series of short dated fishing concessions extending from Belleisle to the Kegashka. As it has been demonstrated, by map and edict, that the *Domaine du Roi* commenced at Cape Cormorant, this map shows clearly the extent of territory we are asked to believe went unclaimed, unconceded and unasked for, during 207 years. A very no-man's land—the only gap from Belleisle to Coteau du Lac, above Montreal, of unclaimed territory.

If, in the whole contents of the Archives of Government, any documents or maps more adverse to the Seigniors could have been found, it may fairly be believed that the Report would have given them. The result of these documents, thus far, is only to demonstrate the existence of the Seigniory of Terra Firma of Mingan, and that its eastern boundary cannot under the most adverse theory be farther west than the Kegashka River.

Passing, however, from the maps given in the Report, attention may be directed to the fact that until the year 1858 all maps published, with any authority, contain the Seigniory of Mingan clearly laid down. It is impossible to conceive of a more formally official map than that of Vondenvelden in 1803, to which reference has already been made. Colonel Bouchette's map of 1815, we have seen, contained the Seigniory also, but with the eastern boundary beyond the Goynish undefined. In 1829 we have another very important official document. It is entitled "Rapports du Comité Spécial sur les chemins et autres

“communications intérieures. Ordonné à être imprimé par l'Assemblée 10 mars 1829. Québec, Neilson et Cowan.” The Sixth Report contains the following passage: “Votre comité s'est de plus procuré un plan figuratif du fleuve St. Laurent depuis Kingston, dans le Haut-Canada, jusqu'à l'Anse Sablon sur la Côte du Labrador, avec les Seigneuries, Townships, etc., dans la Province du Bas-Canada, et votre comité a l'honneur de le présenter à votre Honorable Chambre *comme faisant partie du pré-sent Rapport.*” The “figurative plan” referred to is a large map attached to the Report, and is by William Sax, Provincial Land Surveyor. Upon this most important map thus adopted and printed by order of Parliament is laid down the “*Seigniorry of the Terra Firma of Mingan,*” in the words of the map. It is given as commencing at Cape Cormorant, and extending to a point fifty miles east of the Natashquan, past the Kegashka, and close to the Olomansheeboo, up to which river, the North West Company and its successor the Hudson's Bay Company as tenants of the Seigniors have been paying rent since 1803 to the present day.

In 1832 Lieut.-Col. Bouchette published his Topographical Dictionary in which the title to the Seigniorry, and a description of it, was given, as quoted at Page 3 of this memorandum. Let any one turn back to that citation and compare it with this statement at page 67 of the Report, “in fact the author (Col. Bouchette) treats the concession in the light of a fishing ground, extending from Cape Cormorant along the Labrador Channel to the River Goynish;” he will then be able to judge of the candor of the writer who could make so misleading an assertion in a public document. A similar assertion at page 44 is yet more surprising.

In 1846 the writer of the very Report under consideration published a map, based upon the materials in the possession of the Government, to which, from his position, he had full access. It is a large and valuable map, and was much esteemed at the time of publication, and, indeed, much later, until the recent rapid

changes rendered it of little practical use. Upon this map, also, is laid down the Seigniorship of Terra Firma of Mingan, with its eastern boundary unclosed at the Kegashka. And yet, at page 74 of the Report, the statement is made that "there is no record of any concession to the Heirs Bissot among the Archives of the Province." But when he wishes to diminish the extent of the grant, the same writer, in the same Report, at page 66, gives, from a record he cites, the title of the Seigniorship, the date of the grant, and the number of arpents contained; and adds, with apparent satisfaction, "*the importance of the above mentioned official document cannot well be doubted*" !!!

In 1857 the Commissioner of Crown Lands presented a Report to Parliament, with an appendix, containing, among others, a map of Lower Canada. Upon this, unquestionably official map, is also laid down, as extending from Cape Cormorant past the Natashquan, the "*Seigniorship of Mingan or Terra Firma.*" The eastern boundary is not shown because it overruns the border of the map, which extends only fifteen miles east of Natashquan Point.

Many other maps could be cited, but the above are sufficient. They cover a long period of time, and are all of the very highest authority, being official maps published either by public officers or under official sanction.

In discussing the question of the eastern boundary of the grant, even at the risk of repetition, it is necessary to revert to the trial of 1733, both because the real question then was of boundary, and because the writer of the Report makes it prove so many divergent propositions. If he had but one theory it would be necessary to refute that only, but he has fired off a charge of miscellaneous and divergent theories, and it is not the fault of the present writer if his memorandum is tedious. The various propositions of the Report, though for the most part destructive of each other, have to be considered lest it be supposed that the disproof of any number of them implies the admission of the unnoticed residuum.

It has been shown that the Farmers-General had been for a long period interfered with by the Mingan Seigniors in their trading rights, and that the object aimed at was to move the boundary so far away that no future trouble could arise. *From the preamble to the succeeding ordinance it appears that, in 1707, the Farmers-General had obtained a grant from Intendant Raudot of the trading rights of the River Moisie and two leagues east of Seven Islands. Now, this grant was in conflict with the previous grant to Bissot, and the object was twofold—1st, to exclude the heirs Bissot from future trade in this district; and 2nd, to extort from them the voluntary abandonment of the territory. To that end they offer a valuable consideration, not for the trading rights, for these they have by later concessions, and, besides, the Heirs admit that they have given up their trade at Isle-aux-Œufs and Seven Islands but for the "*abandon volontaire du terrain.*" The heirs accept, and add also that they do it "pour éviter toute discussion et faire connaître l'éloignement où ils sont d'apporter aucun trouble à la ferme du Tadoussac." For this purpose they consent to the taking out a new title, which Cugnet representing the Farmers-General, wishes the Intendant to compel them to do. For the new title would contain the new boundary on the west, viz Cape Cormorant, and no future trouble could arise under the old one. The taking out of "*un nouveau titre*" is simply the taking out of new deeds. The burned deeds were granted by the Company which ceased to exist in 1663, and, in 1733, application had to be made to the King; and the Intendant, who could not bind the King, states that the King will issue them under what conditions he may please. No record exists of new titles ever having been issued, but that the old title stood good the warning off of De Brouage is proof, if proof is needed, of a fact which even Cugnet did not dispute.

Now, the territorial extent of the grant originally, as given in the extract from the "*Aveu*" upon the *Papier Terrier*, was

* Edits et Ordonnances, Vol. 2, page 358.

“ depuis la dite Isle-aux-Ceufs, jusqu'aux Sept Isles et dans la
 “ Grand Anse vers les Esquimaux où les Espagnols font ordinaire-
 “ ment leur pêche.”

Cugnet's demand explains the meaning of this clause. He asks that the Bissots shall take new deeds “ prendre nouveau titre pour l'établissement par eux fait à dit Mingan a com- mencer de la Pointe-des-Cormorans en allant a la Baye des Es- pagnols.” It at once admits their title, their occupation of the property, and the extent of it as understood at that time. Three phrases are used “ dans la Grande Anse où les Espagnols font leur pêche,” “ allant à la Baye des Espagnols” and “ jusqu'à la Baye des Espagnols,” as equivalently marking the Eastern bound- ary, admitted by Cugnet and occupied by the heirs. It went quite up to the Baye des Espagnols. The writer of the Report at page 51 substitutes the words “ vers les Espagnols meaning towards les Espagnols.” No such expression occurs. It is not “ vers les Espagnols,” it is “ vers les Esquimaux,” and “ à la Baye des Espagnols.”

The Report relies upon this trial to interrupt prescription. It has precisely the contrary effect. It recognises the Bissots as proprietors, under their old titles, of a territory from Cape Cor- morant to Spaniard's Bay, as trading there, and holding exclusive possession. The Seigneurs of Mingan do not now claim the land from Isle-aux-Ceufs, which was the sole subject matter of the trial of 1733. The defence of the Seigneurs in 1733 was limited to that territory because the attack was limited to it. They were not likely to make voluntary abandonment of their whole property for the sake of the remission of some small back dues to the Crown.

We come now to the consideration of the fourth question. What are the limits of the grant? To this the answer seems at first sight very easy. The eastern limit is the “ Baye des Espa- gnols.” Even the writer of the Report admits that, in his endeav- ors to prove three distinct localities for the said Bay. As we have seen that the Esquimaux of the title cannot be Islands as well as Indians; so the Bay of the title cannot be in three different

places. Going over the records in order, we find this limit expressed in the following forms:—

In the grant of 1661, as given in the *Acte de Foi et Hommage* of 1668 it is—"la Grande Anse, vers les Esquimaux, où les Espagnols font ordinairement leur pêche." In the trial of 1733 "Baye des Espagnols" is given as an equivalent. In the public records of 1781, it is again "la Grand Anse, vers les Esquimaux, où les Espagnols faisoient ordinairement leur pêche." In 1803 it is the same, with the tense of the verb changed back to the present "*font*." In 1832 Bouchette uses also the same form, with the present tense, and, in the final Act of Foi and Hommage in 1837, it is "*going as far as the Great Bay towards the Esquimaux where the Spaniards generally carried on their fishing*," this last is the decisive limit; for it is inscribed upon the *Papier Terrier* and signed by the Governor General. It is however merely a repetition of the original grant.

When the deed to Bissot was drawn, in the office of the Company of New France in 1661, we may be sure there was a map of the country before the eyes of the grantors, and a definite purpose in their minds. There are three marks which show this, they indicate a "Great Bay" which has those physical peculiarities included in the notion of an "*Anse*;" it is "*vers les Esquimaux*" indicating that the grantor knew where the Esquimaux were at that time. And it was a place where the Spaniards usually and continuously fished. The change of phrase and tense in later years shows that this habitual use of the "Great Bay" was, for some reason, intermitted by the Spaniards; but, at the time of the first grant, a definite state of matters existed in the Gulf, to which the final Act of *Foi et Hommage* in 1837 has reference.

In the title, the word "*Anse*" first challenges inquiry. It is from the latin *Ansa* and primarily signifies a handle, as for instance, of a basket, stretching across and attached to both sides of any object. In nautical language it is applied to any indentation of a coast marked by bold and prominent headlands; so far the Report is correct in its disquisition upon this word. But an

"Anse" is not always a shallow indentation, because de Galinée writing in 1670* of his explorations in Lake Huron, calls Georgian Bay une "anse profonde." The Anse of our title may well be that well known resort of fishermen in the earliest days, now known as Bradore Bay. The headlands which mark this bay are most conspicuous. The very bold and remarkable headland, to which the name Grand Point has clung to the present day, forms the eastern limit, and Belles Amours Point the western limit of this Anse. "Belles Amours Point," says Bayfield, "will be easily recognized, being a mound of bare granite 60 or 70 feet high, at the south-east extremity of the low peninsula separating the harbor of the same name from Middle Bay." If this Anse possesses the other specific requirements of the title, its physical aspect admirably fulfils the indications of the word Anse; and its importance and magnitude justify the name *Grand Anse* as applied to it, to which the name "Grand Point," borne by its eastern headland from the earliest times, also bears witness.

An Anse, however, it is evident, is less than a Bay, therefore, a *Grande Anse* may well be a portion of a *Grande Baye*; and here we arrive at the fact that, in the remote days of this grant, the whole of the water marked off by Cape Meccatina on the Labrador coast and Cape Riche on the Newfoundland coast, northwards to the Straits of Belleisle, was always and has been from the earliest times down to a comparatively recent period, called *la Grande Baye*. It was conceived of as a sheet of water, shut in from the Gulf of St. Lawrence by these capes, and of this every early map and every early writer gives evidence. Almost the earliest information we have concerning this region is the "*Routier de Jean Alphonse de Xaintouge*." The date is 1542; Alphonse was the pilot of Roberval; very skillful and celebrated in his day. "Belleisle à l'embouchure de la Grande Baye, et les Isles de Blanc Sablon qui sont dans la Grande Baye, près de la côte du Nord, gisent Nord-Est, Ouest et Sud-Ouest, et la

* Vide Map in vol. 3, Faillon, Colonie Française, of Dollier de Casson and de Galinée's explorations.

“ distance est de trente lieues. La Grande Baye à son embouchure n'a que sept lieues de large d'une terre à l'autre, jusqu'à ce que vous soyez arrivé vis-à-vis la Baie des Châteaux ; et de là plus outre, elle n'a pas plus de cinq lieues de largeur et à l'opposite de Blanc Sablon elle a huit lieues de largeur d'une terre à l'autre.” A little later, in Hakluyt, we find a map made by Michael Lok, to illustrate Verazzani's voyage, in which Grand Bay is laid down in the present Straits of Belleisle. In Hakluyt is also Hudson's map, 1612, with “ *The Grand Bay* ” in the same place. In Jean de Laet's map, 1640, “ *Grande Baye* ” is near the Straits, in the centre of the expanse of water enclosed between Meccatina, Cape Riche and the Straits.* This writer is very precise, he says: “ Ainsi je me contenterai de dire, que ces embouchures s'appellent des Français, Golfe des Châteaux, et continuent ainsi étroites quelques lieues, et où elles commencent à s'élargir, les deux rivages s'éloiguans l'un de l'autre, elles sont premièrement cette Baye, dite vulgairement Grande Baye, après où elles s'enlargissent tout-à-fait, cela se nomme Golfe de St. Laurent.” The time is only 20 years before our grant; and he informs us also of the people who frequented these waters: “ Au reste, les Français et *Espagnols* qui entrent tous les ans par le destroit de St. Laurens pour y harponner la baleine.” The same information is given on Dudley's map in “ *Dellavcano del Mare* ” published at Florence in 1647; he calls it “ La Gran Baia dove si pescono le Balene.” Viisscher's Map, 1652, dedicated to the Dutch West India Company, gives la Grande Baye in the Straits. Bleau's map, Amsterdam, 1662, one of the very highest authority, places “ la Grande Baye ” between Grand Meccatina and Grand Point on the Labrador coast. Creuxius's map, 1664, draws it nearer to the Newfoundland coast opposite. Homann's map, Nuremberg, 1707, follows Bleau's in placing la Grande Baye on the Labrador coast extending between the two headlands of Grand Meccatina and Grand Point.

*Jean de Laet, Hist. du Nouveau-Monde, liv. II, ch. 2.

These waters, as we are informed by Jean de Laet, were, at the time of the grant, the resort of Spanish as well as of French fishermen; for that part of the coast abounds in sheltered harbours where vessels can anchor all the fishing season. This cannot be said of the coast from Meccatina west to Mingan. "From Meccatina to Cape Whittle," says Bayfield, "it is as dangerous as can well be imagined." Nor is there between Cape Whittle and Natashquan Point any indentation of the coast answering to the description of a "Grande Anse." The only place on this part of the coast affording anchorage to large vessels is Coacocho Bay. Nor is there in its whole length any memory of its occupation by Spanish fishermen. It was not inviting to sailors who had the choice of the whole coast of Labrador and Newfoundland. Concerning this locality Bayfield writes:

"Cape Meccatina is a long and remarkable promontory of the mainland, and of moderate height for some distance to the northward of its extremity; but, about three miles to the northward it rises to the height of 685 feet above the sea. The highest part of what is called the high land of Meccatina, which rises directly in rear of Meccatina harbour, cannot be less than 700 feet above the sea, and is the highest land upon this coast from Bradore westward to the vicinity of Mingan." The fact is that the North Shore is low and monotonous. The points are sandy spits rather than bold headlands, Mont Joli, which is laid down on map E of the Report with a vehemence proper to Mont Blanc, is thus described by Admiral Bayfield:—"Mont Joli mentioned in all former remark books, has no existence, at least there is no mountain, nor even anything that deserves the name of a hill, but near the termination of the sandy cliffs which end at the southwest extremity of Natashquan point the sandy ridge with spruce trees rises into a slight mound, a very little higher than the rest of the country. This is Mont Joli; but so little remarkable in appearance that we should not have noticed it, had it not been for its name."

To the well defined stretch of water east of Meccatina the name "Grand" still clings; for the promontory, which bounds it

on the North, is still called Grand Point on all maps; and the promontory on the South, is still called "*Grand*," sometimes "*Gros*," and sometimes "*Great*" Meccatina. In some maps (Cartwright's for instance), it retains its name simply as "Grand Point." Cartwright lived for many years on the Labrador coast. His work in 3 vols. quarto, is illustrated by a map of this region drawn by order of the Lords of Admiralty, by Lieut. Michael Lane, Surveyor of Newfoundland, and published in 1790. Upon it the two points are both called Grand Point simply.

In the Grand Anse we are looking for, the Spaniards used to fish. This is a most important mark, and any bay where it cannot be shown that the Spaniards were in habit of fishing will not satisfy the demands of the deed.

The presence of the Spaniards, in these northern waters, recalls the early days of the grant. The Spanish marine in those times was the most important on the Atlantic, and their vessels resorted to places in the north where only an occasional unexplained name lingers to mark their early enterprise. Charlevoix tells us that on old maps the Bay Chaleur was called "*Baye des Espagnols*," but in his writings, the name is applied only to what is now Sydney harbour in Cape Breton. Still, however, in the northern part of *la Grande Baye* above described, the name *Baye des Espagnols* has survived. Thus is Popple's map, one of high authority published in 1733, is laid down near Bradore Bay, * "*Bay et P. des Espagnols*;" and in the map of North America published by John Senex in 1710, Spaniard's Bay is given at the same place. In fact, at that time it was matter of notoriety in England, as we shall see, that the Spanish were fishing there. In Jeffries' Map E, appended to the Report under review, Spaniard's Bay still remains laid down near the Strait of Belleisle. It is matter of history that the Spaniards and Spanish Basques were among the first in these northern waters, and that the art of hunting whales was learned from them; so that when the English and Dutch first

* Popple's Map of the British Empire in America, with the French and Spanish settlements adjacent thereto. Dedicated to Queen Anne.

entered into the Greenland and Spitzbergen fisheries, * they got their harpooners from St. Sebastian. Now this part of the Gulf was then, and long after, the best ground for whales. A resident near Bradore Bay wrote in 1841 that "it was and is yet the *ren-dez-vous* of every sort of fish and fowl that resort to the north during summer, and it is without dispute to this day the best fishing ground in the world for seals."† The Spaniards however, who fished in this Bay had their establishments not only on the Labrador side, but also just opposite on the Island of Newfoundland. ‡ LaHontan, whose letters were written between 1684 and 1694, and who acted for a time as Lieutenant du Roy at Placentia, speaks of the "Spaniards who follow the cod-fishery at Portochoua." This name has been corrupted into "Port au Choix" and on the maps of Newfoundland to the present day near the same locality are other Spanish names. There are old and new *Port au Choix* and old and new *Ferrolle* upon la Grande Baye, leaving traces of a trade which the English broke up in 1713. The presence of Spaniards in that locality is also shown upon a map published in 1703, by Guillaume de l'Isle, Premier Géographe du Roy, who lays down *la Baye des Espagnols* near the Straits of Belleisle, and gives Port à Choix as Port de Chouard. All these facts show that the eastern boundary of the grant extended as far as the present Bradore Bay. This accounts for Col. Bouchette's statement that "only that portion of the Seigniorly west of Blanc Sablon is in the Province of "Lower Canada."

The French and Spaniards carried on their fishing amicably together; but, in 1713, the Island of Newfoundland was given to the English by the treaty of Utrecht. The French, however, retained the right they still hold, to dry fish on the shore from Cape Riche round by the north to Cape Bonavista. From Cape Riche to the Straits was then called "le Petit Nord," and the

* Scoresby—Arctic Regions.

† See also Fortier's Report on Fisheries of the Gulf, 1858.

‡ La Hontan, *Memoires*, Vol. 2, page 11.

Spanish Ambassador claimed for the Spaniards the same rights; because there the French and Spaniards had from time immemorial fished together. Consequently the treaty provided that the Spaniards should retain any rights they might have there subject to proof in the King's courts. The trials came on and because the Spaniards could not shew written titles they were ousted, and their name and memory faded away from these waters.

Again the reader's attention is called to the date of the grant, 1661. Bissot who asked for it had been in Canada since 1648, at least, for he married that year. The grantor was the Company of New France in Paris. Those who drew and accepted the deed used language which conveyed to their minds a definite meaning, although at this distant period it may seem vague. The works of Champlain give a clue to the difficulty. He was the first Governor for the Company, and his works were in every one's hands. His maps were the only French maps recorded as existing at that time. The map ascribed to Champlain in the Report was made, as we have shown, by Duval three years later than the grant and thirty years after Champlain's death, but the *real* maps of Champlain are in the splendid edition of his works, published under the enlightened and generous patronage of Laval University. On them will be found "*La Grande Baye*" extending along the Labrador coast from Meccatina to the Straits of Belleisle. And there, in the rear, on the mainland, are "les Esquimaux," in whose direction the grant "vers les Esquimaux" was to extend. One other mark of identification is needed — *les Espagnols*. For this, we must turn to Champlain's works, in fact, to his own explanation of his own maps, for Champlain was a precise and methodical man, and left nothing about his maps unexplained. We find it at page 104, Vol. 3 (*Voyages of 1632*). "Il y a un lieu dans le golphe Sainet Laurent, qu'on nomme *la grande baye*, proche du passage du Nort de l'isle de terre neufve, a cinquante deux degrés, où les Basques vont faire la pesche des balaines." There were *French* Basques, however, as well as *Spanish* Basques, so we must look further; and at page 270, Vol. 1, in explaining his earlier maps, he gives the required identification: "jusques

" an
" de
" pe
the
note
" pa
" isl
occid
resis
of th
of C
Comp
hand
fom
the g

W
deed
in th
Bay,
We k
and t
Esqui
still n
which
Frang
reann
It is t
aux su
Lauren
This lo
Bradon

All
bounda
by a de
Gower
qu'a fu

“ au cinquante uniesme (degré de latitude) qui sont les confins du Canada ; ou *Grande Baye*, où se faict le plus souvent la pesche de balaine, par les Basques et Espagnols.” Upon this the learned editor, the Abbé Laverdiere, gives the following note : “ Ce qu'on appelait autrefois *la Grande Baye* est cette partie du Golfe Saint Laurent qui aboutit au detroit de Belleisle, et qui forme, en effet, comme une grand baie, entre la cote occidentale de Terre Neuve et la Labrador.” It is impossible to resist the conclusion that the information present in the minds of the parties to the deed was afforded largely by the writings of Champlain, the father of Canada and the Governor for the Company, whose works were at that time published and in the hands of all interested in the country. No other locality can be found in the river or gulf which will answer to the conditions of the grant.

We have now arrived at the fact that the Spaniards of the deed were fishing in waters east of Cape Meccatina ; to wit :— in the waters of *la Grande Baye* ; but as an Anse is less than a Bay, the indication is not sufficiently precise for a boundary. We know also that the Esquimaux of the grant were Indians, and that they were then located near the place now called Esquimaux Bay ; far east of Meccatina. The precise locality is still more nearly indicated by the deed of July 10th 1769 in which Bissot de Vincennes sold his share of the property to François Brissonnet. At that time the judgment of 1733 had not reannexed to the *Domaine du Roi* the western part of the grant. It is there described as l'étendue de la concession qui appartient aux successions de ses dits père et mère située sur le Fleuve St. Laurent à prendre depuis l'Isle-aux-Ceufs jusqu'au Blanc Sablon.” This locality still retains its name and is the next bay east of Bradore Bay and adjoining Grand Point.

All the preceeding evidence as to the location of the eastern boundary of the grant is however converted into demonstration by a document to be found in the “*Correspondance officielle des Gouverneurs en Canada.*” It is the detailed report of a “*voiage qu'a fait le Sieur de Courtemanche à la coste des Esquimaux depuis*

Kegaska jusqu'au Huerre St. Nicolas." The coast is described with much detail. Going eastwards fifty leagues below Mingan is Kegashka, the river and harbour, then Mascourou, then the *Rivière de la Peinture*, [Olomansheeboo or Paint River,] then Étamannu, then Netagannu, then Little Meccatina, then Grand Meccatina, then Ha Ha Bay, then St. Augustin, then Esquimaux River and Esquimaux Bay, then comes the following: "Huit lieues ensuite est la Baye des Espagnols dans laquelle la pêche de morue est très abondante. * * * Les Espagnols, au dire des sauvages l'y ont fait autrefois, et probablement y serait encore, si ce n'était le mauvais traitement qu'ils y ont reçu des Esquimaux. L'on y voit encore les vestiges de leurs établissements, fourneaux à fondre l'huile de loups-marins, maisons, couvertures de l'huile, et autres choses semblables. A une lieue plus bas est la Grande Pointe." Here then at last is this much disputed point set at rest by a document found among the papers forwarded by the Governor of Canada to France and written by a man of rank in the colony, familiar with the coast of Labrador.

Although the precise boundary is thus fixed at what is now Bradore Bay it will be useful to record confirmatory proofs from other quarters.

In 1679 the Intendant Duchesneau granted to Louis Jolliet and Jacques Lalande, "en titre de fief et seigneurie," the Isles and Islets of Mingan as follows "les isles et islets "appellés Mingan estant du côté du Nord et qui se suivent "jusqu'à la Baye appelée l'Anse aux Espagnols." This is the concession referred to in the case of Gastin vs Peyre, tried in 1725, as extending *vis-a-vis* to that of the Terre Ferme de Mingan. Whenever then this concession ends on the east the *Anse aux Espagnols* must begin; and thus the problem will be solved in a different manner, and the first solution verified or disproved.

Concerning Louis Jolliet, we have had to say a good deal in the course of this enquiry; but the point important here is that he had establishments on these islands, and that, from a document in the possession of M. Pierre Margry, we learn that

he "died and was buried on one of the Mingan Islands, that which is situated opposite Grand Meccatina." The presumption is that he died on his own Seigniory, but as that might not have happened further enquiry must be made.

In 1739 a case came before Intendant Hocquart which throws further light on this question. The Sieurs Lafontaine and Pommereau,* who had short-dated concessions on the main land of Labrador, complain that the Seigneurs of the Isles and Islets of Mingan refuse to concede to them land needed for continuing their seal-fisheries upon the islands *opposite their concessions*. The Intendant ordered the heirs Joliet to grant the required land. A reference to the map at the end of the Report shows that Lafontaine's lease was east of Cape Whittle, and Pommereau's commenced at Great Meccatina. In his judgment the Intendant recites the limits of the Joliet grant "jusqu'à l'Anse aux Espagnols." This Anse was therefore, according to the information laid down on the map appended to the Report, *east of Grand Meccatina*. If any doubt yet remains, however, it will be set at rest by a judgement† in 1742. In this case the heirs of Joliet complain that the rent paid by the widow Pommereau for the Islets opposite her post is insufficient. Here reference to a map is not necessary; the judgement states the locality to be Gros Meccatina. *Wherefore it becomes absolutely certain that the Anse aux Espagnols was east of Meccatina*—how much farther east is demonstrated by the evidence cited in the preceding pages.

It has been shown that the eastern limit of Terra Firma of Mingan was at Bradore Bay; and yet, the Crown did make short leases to various parties east of the Kegashka, which are those laid down on the last map in the Report under consideration. The circumstances under which these leases were granted are not now on record; but in the suit referred to in a former part of this Memorandum, that of Gastin *vs.* Peyre, it has been shown that a permission was given by the Intendant to Peyre

*Edits et Ordonnances Vol. 2, page 550.

†Edits et Ordonnances Vol, 2 page 570.

to use for a definite period an unoccupied portion of the Seigniory leased by Gastin; and, as we have seen, the Joliet heirs were forced to concede land on their Seigniory for a limited occupation and subject to a rental. This point was decided in an Ordonnance of 1739, and it was expressly declared to be without prejudice to the proprietary rights of the Seigniors (*en maintenant le dit Sieur de Lagorgondiere et ses co-héritiers dans la possession des dits isles*). By an application to the fisheries of a well-known principle, under which Seigniors were obliged to concede vacant farms, the Intendent was empowered to make grants in the King's name at a specified rental, if the Seigniors persisted in refusing. These concessions, laid down by the writer of the Report, were all short dated fishing and trading grants. Legardeur's, for instance, was for ten years only. It was limited "*y faire le commerce avec les sauvages et la pesche des loups-marins*." It was not renewed, and the other short grants of later date covered a large portion of the same ground. It had no depth. The depth indicated on the map appended to the Report existed in the imagination of the draughtsman of 1867, not in the deed of grant of 1702. Lafontaine's grant was only for nine years, Vincent's for nine years, De Beaujeu's for six years. None of these were seigniories, or ever pretended to be such.

Shortly after the conquest English residents began to acquire the rights of the Bissot heirs until in 1789, by purchase and marriage, the whole Seigniory of Mingan had fallen into the hands of three persons, Messrs. Grant, Stuart and Dunn, who carried on the fisheries over its whole extent directly or by their lessees, the Labrador Company. In 1803, the lease was made to the North West Company as far as the Olomansheeboo, and the same Company bought the stores and outfit at the stations on that portion at the same time, but the fisheries on the more easterly part were still carried on by William Grant, one of the Seigniors, and others, until, on April 30th 1808, all the posts occupied by him and his co-partners in the Labrador Company were sold by Sheriff's sale. Some of the posts were on the seigniory of the Isles and Islets of Mingan. Among others on the main land are enumerated posts

at Etamamu, Meccatina, Mutton Bay, St. Augustine, Bradore and Blanc Sablon. These posts, the houses, stores, provisions, and outfit were bought in by the predecessors of the present proprietors.

Finally it must borne in mind as essential to a proper comprehension of this question, that, interesting as may be the discussion of these antiquarian points, it is not necessary on the part of the proprietors. The land in question must be claimed either by private persons or by the Crown. The proprietors and their predecessors, from whom their title is derived, have held immemorial possession of their seignior, from 1661 to 1867. For a period of two hundred and six years their ownership was unquestioned. The short fishing grant to Legardeur cannot be construed into an interruption, and if it could such interruption can only have effect upon the portion of the seignior east of the Kegashka. At the end of the last century the Seigniors are found themselves occupying the territory in its entire length. No person comes forward with any opposing title. No person asserts any portion of the land to be his, by deed, inheritance, possession or any other way in which property is acquired. By the Civil Code [2242] a thirty years possession is sufficient *and after that period an owner of land is not bound to produce any title.* By article 2245 *a prescription of thirty years is equivalent to an immemorial title.* All private pretentions are put out of question by the one single fact, that, putting aside all their previous occupation and enjoyment, from the year 1803 to the present instant, the proprietors have drawn rent from their property, and at the present moment are occupying it by means of their lessees from Cape Cormorant to the Olomansheeboo.

As against the Crown, the case of the proprietors is equally clear. The *Acte de Foi et Hommage* of 1837, of record in the public archives of the Province, full, complete and formal, in every respect, would cover any informalities of title, if any such had in fact existed; *and it forever bars the Crown from raising any question of title.* This principle is fundamental in feudal law. It was a

necessity of the old unsettled days, when feudalism arose, that king and vassal should declare openly their solemn obligations before the assembled court. In those warlike days records could not be permanently kept, but, by the open *Foi et Hommage* at each mutation, witnesses could always be found who could testify, if the records should be destroyed. Now the mutation fees were claimed by the Crown in 1806, and they were paid and the documents are of public record, and the seigneurs were in possession and have so remained.

An *Acte de Foi et Hommage* is title sufficient of itself against the Crown. Whoever questions it, the Crown cannot. This principle is self-evident upon the most cursory view. It is very clearly expressed in the following passage from Lefevre de la Planche *Traité du Domaine*, Vol. 1 page 185 :

“ Lors donc que le seigneur a reçu son vassal en foi, il ne lui reste qu’une action pour le recouvrement des droits qui lui sont dus.” The seigniors hold an acknowledgement from the King “ des droits qui lui sont dus.”

When then the proprietors of *Terra Firma of Mingan* are asked to show their titles, they need only refer the inquirer to the *Registre de Foi et Hommage*, tome 4, p. 22, where it will be found that the Governor-General, Lord Gosford, as representing Her present Majesty, received the said seigneurs into *Foi et Hommage* for the “ fief et Seigneurie de la Terre ferme de Mingan, situé dans le Golfe de St. Laurent sur le coté nord, commençant au Cap Cormoran en allant au Nord-Est jusqu’à la Baie appelée la Grande Anse vers les Esquimaux, où les Espagnols font ordinairement la pêche sur deux lieues de profondeur,” elsewhere described in the same document as having been granted to the Sieur Bissot in 1661.

There are very few ancient titles to property clearer than that.

n arose, that
n obligations
records could
Hommage at
l who could
mutation fees
paid and the
were in pos-

tsself against
annot. This
. It is very
efevre de la

foi, il ne lui
s qui lui sont
n the King

an are asked
irer to the
will be found
sented Her
et Hommage
ingan, situé
mençant au
aie appelée
ls font ordi-
," elsewhere
nted to the

clearer than

