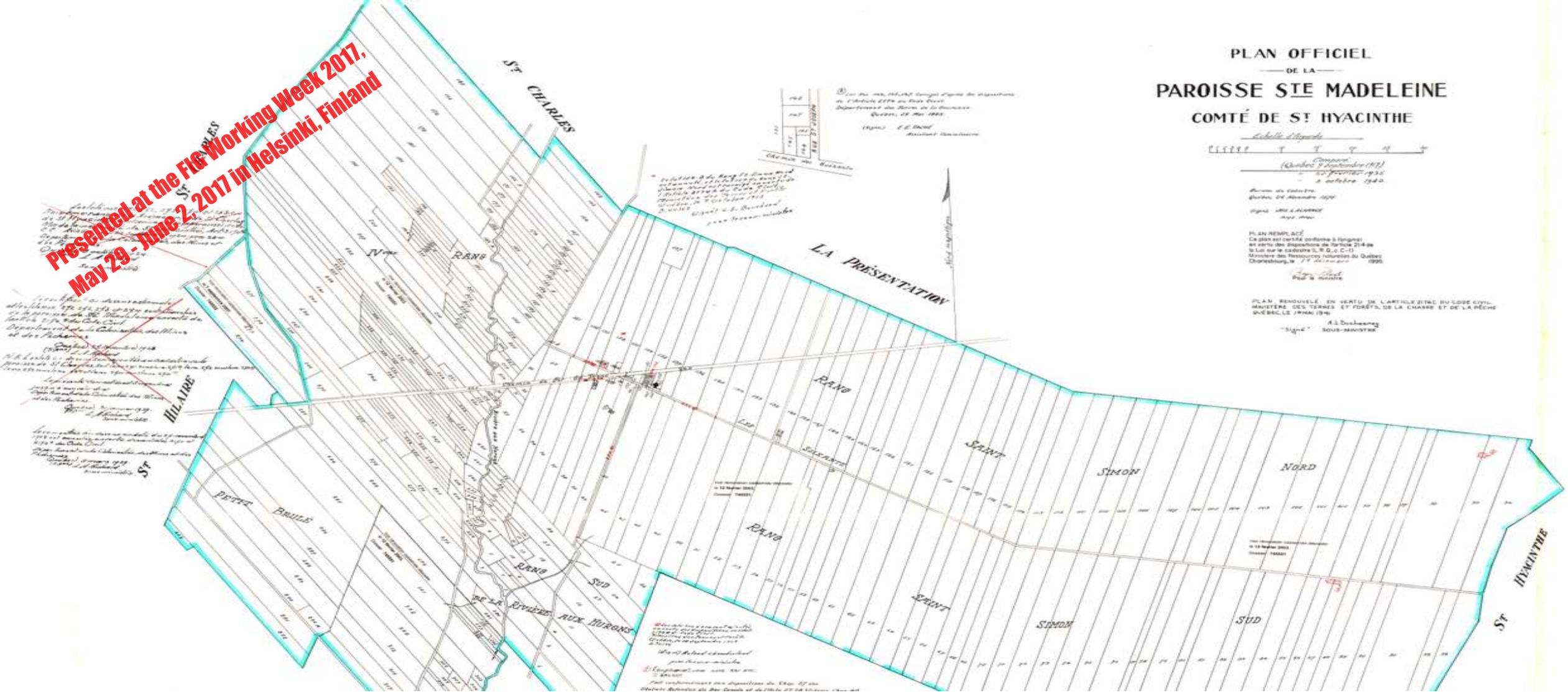


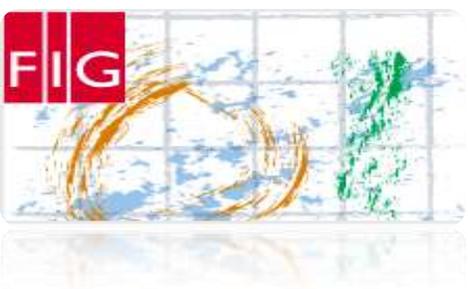
Presented at the FIG Working Week 2017,  
 May 29 - June 2, 2017 in Helsinki, Finland



**Francis Roy and Yaïves Ferland**  
 Université Laval, Québec, Canada  
 FIG 2017, Helsinki FI, 31 May 2017  
 History Session

**Land Registration and  
 Cadastre Institutions in  
 Lower Canada (1830-1867)**





**LAND REGISTRATION AND  
CADASTRE AS INSTITUTIONS  
IN *LOWER CANADA* (QUEBEC)  
PROVINCE, 1830-1867:**

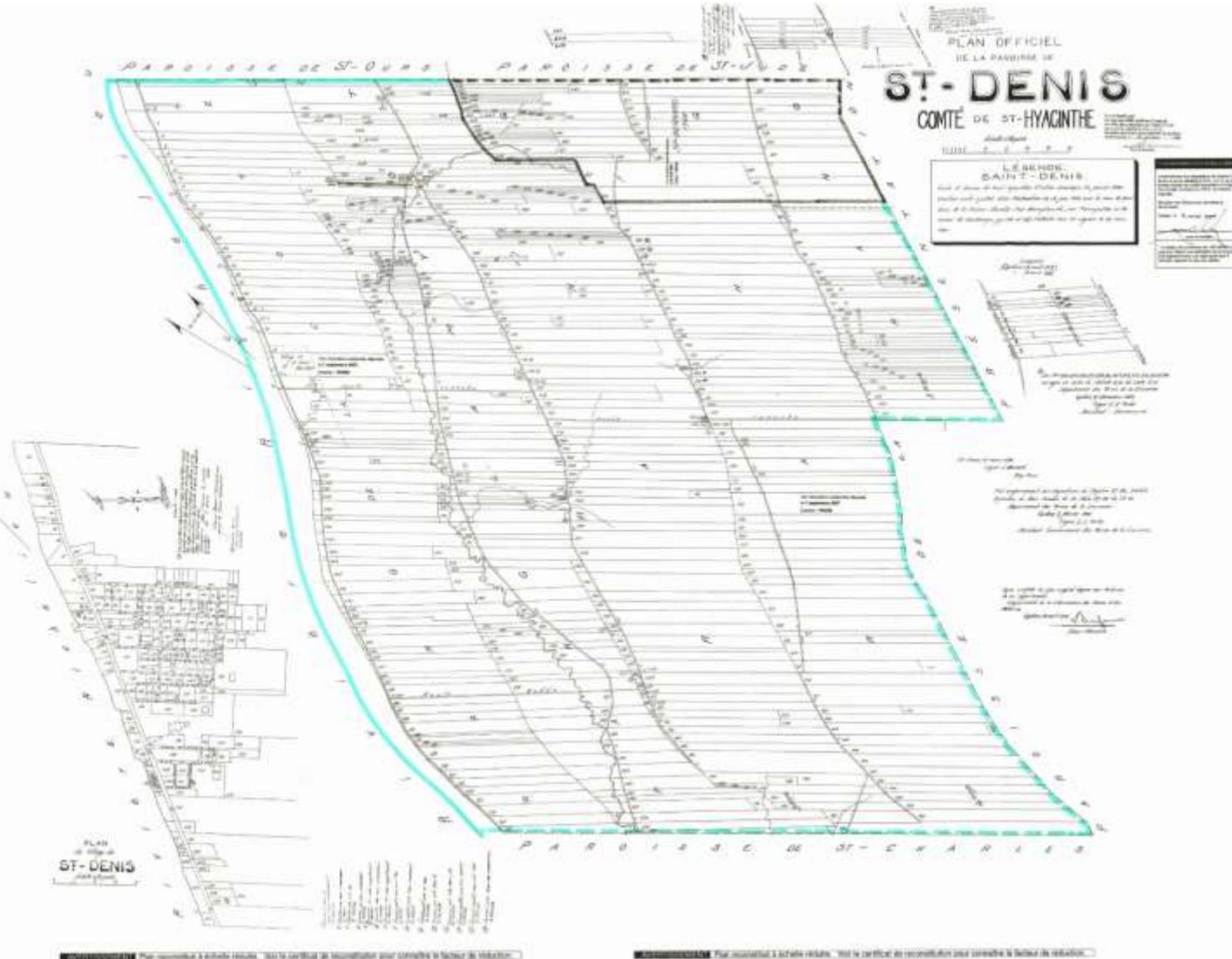
***STILL A CURRENT SOURCE OF  
INSPIRATION TODAY?***



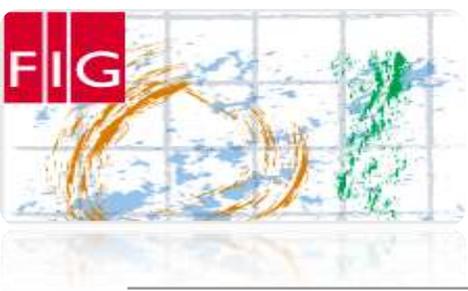
# NO LAND REGISTRATION WITHOUT REPRESENTATION!



Dé



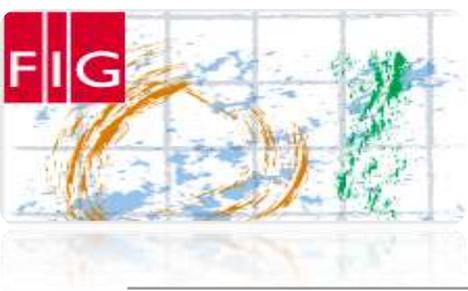
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# OUTLINE

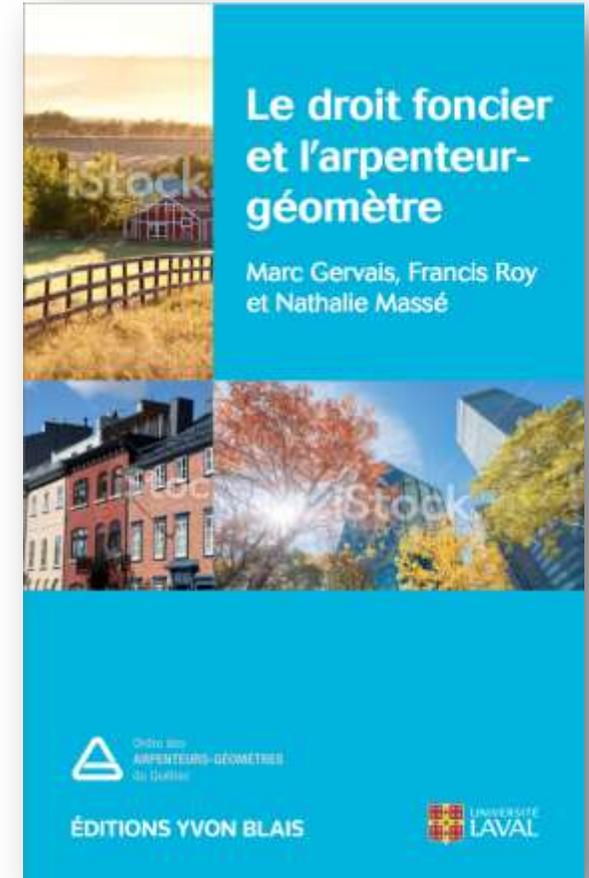
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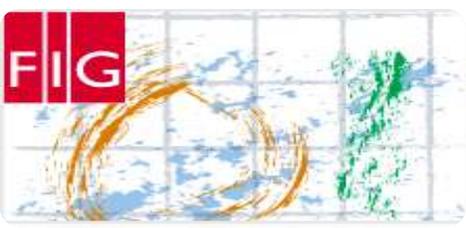
- **Introduction about a Troubled Context (1830 – 1867)**
  - Political Construction of the State = Reforms
  - Social Transformation
- **Needs for Land Registration:**
  - Guarantee for Economic Development
  - Security for Individual Owners
  - Establishment of Registry Offices
  - Needs for Cadastral Maps,
- **Laws for New Land Institutions**



# INTRODUCTION OF THE WORK

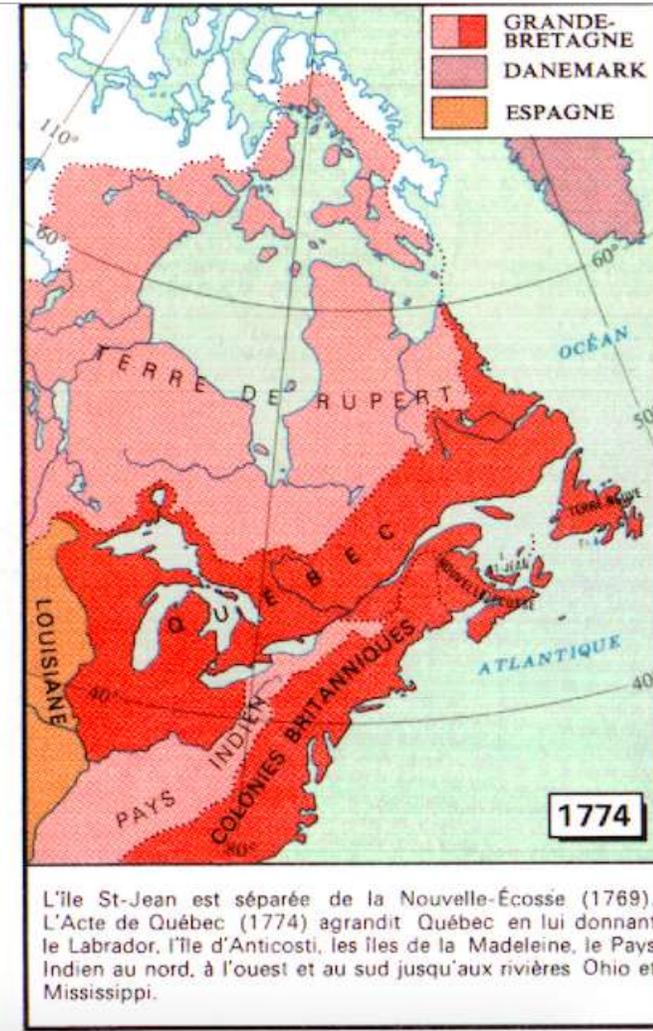
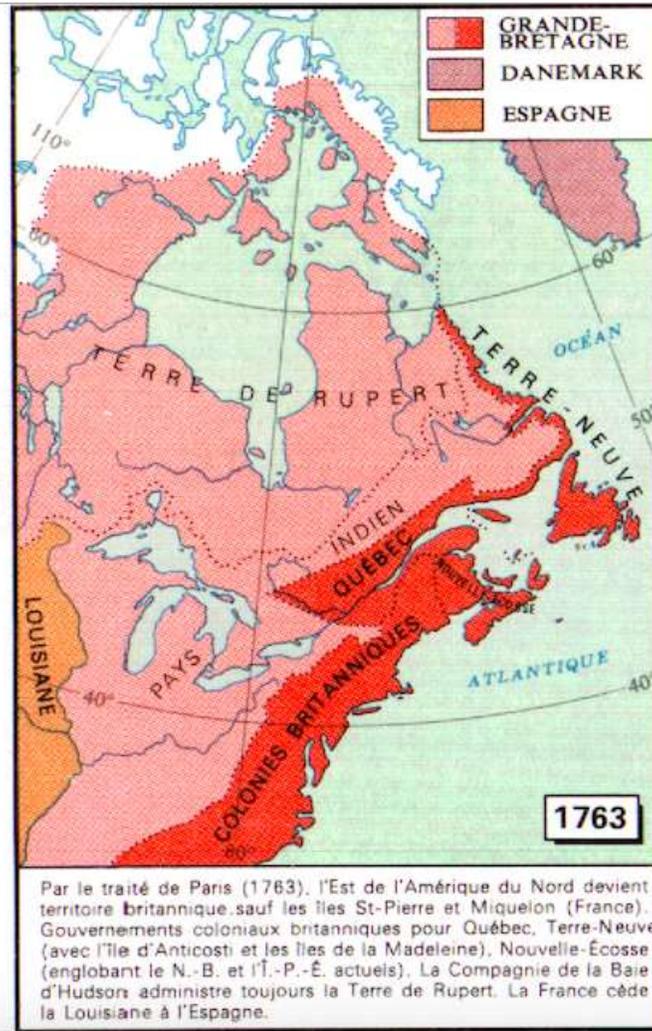
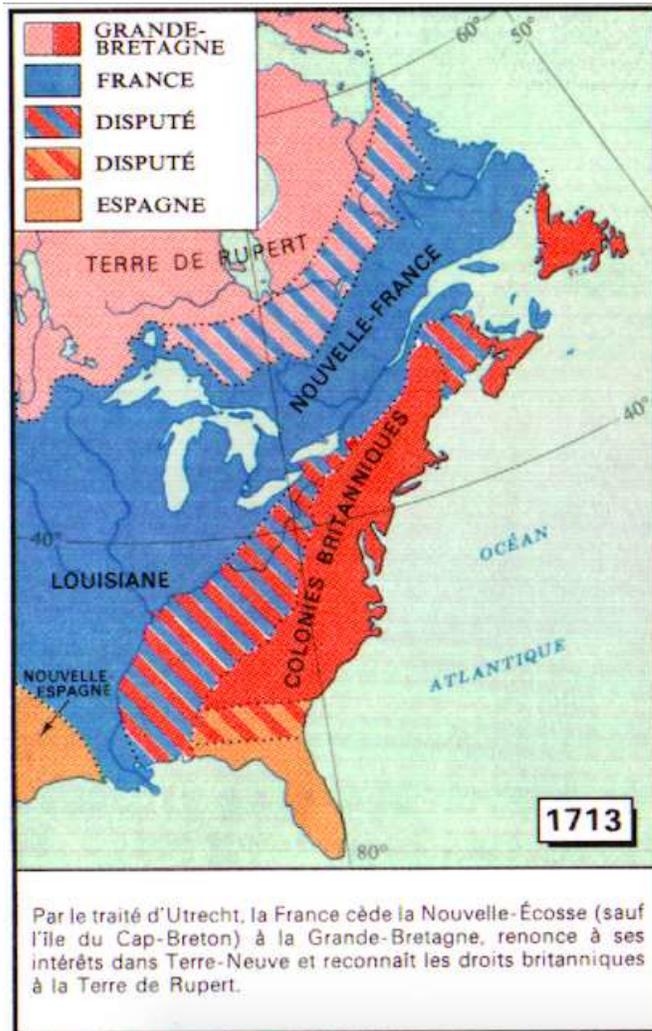
- **Collective book on Land Law for Land Surveyors in civilist Quebec**
  - Mandated by the Ordre des arpenteurs-géomètres du Québec
- **Two chapters:**
  - Conceptual, historical, and legal aspects of Crown/Public Domain, Land Tenures, Private Land Property
  - Cadastre, Lot Matriculation (numbering), Security by Publicity
- **Recollect knowledge from expert actors of the presently closing cadastral reform**
- **Compare cadastral reform with “originary” cadastre institution**



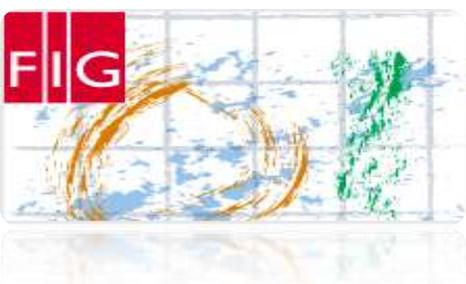


# NEW FRANCE

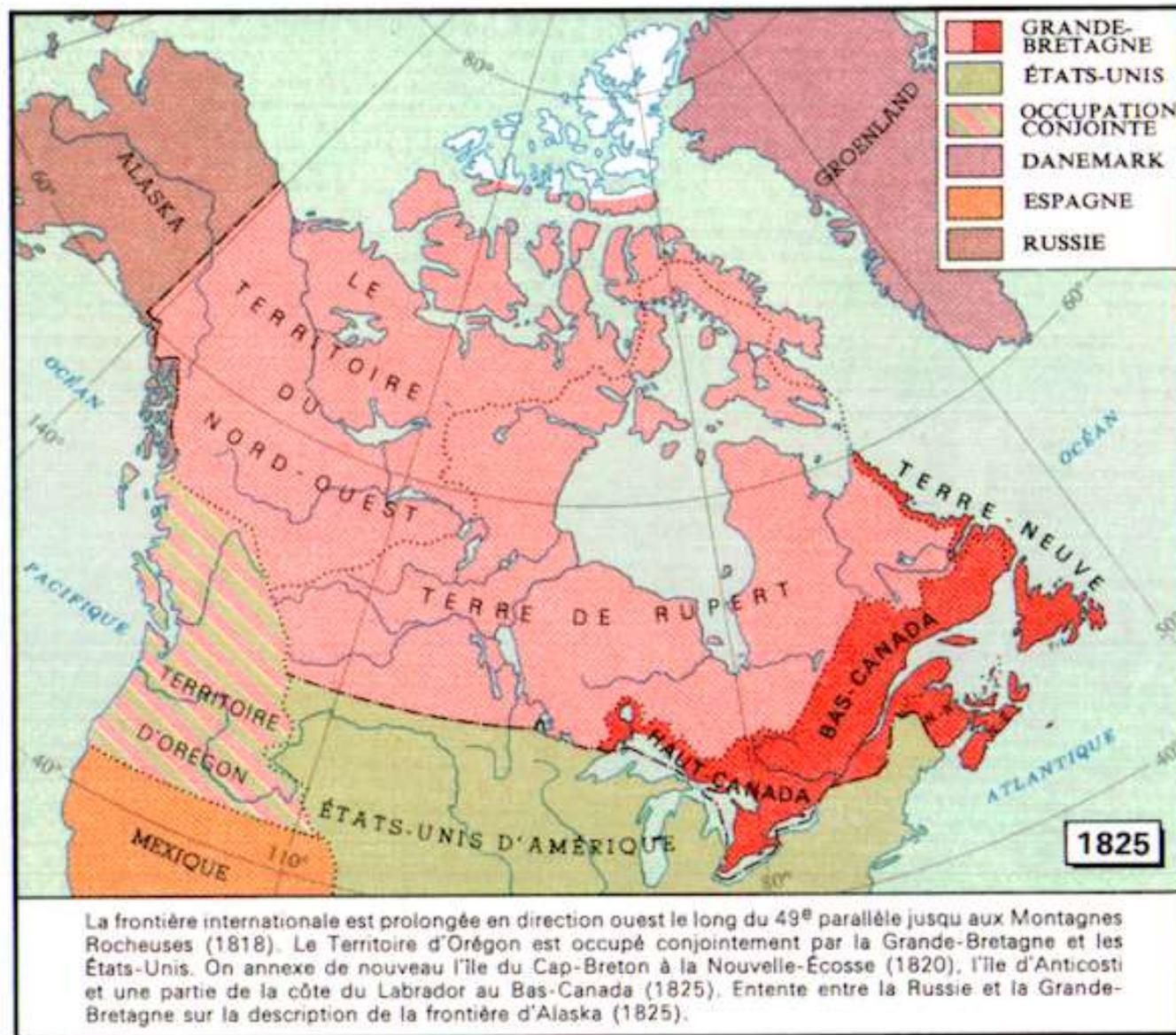
## PROVINCE OF QUEBEC



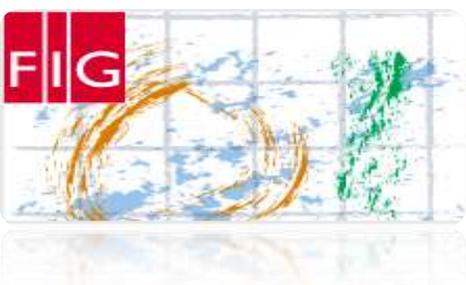
Excerpt of: National Atlas of Canada (1969)



# LOWER CANADA – UPPER

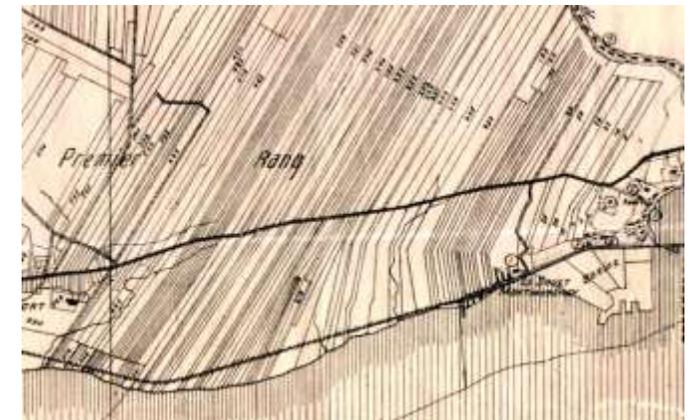
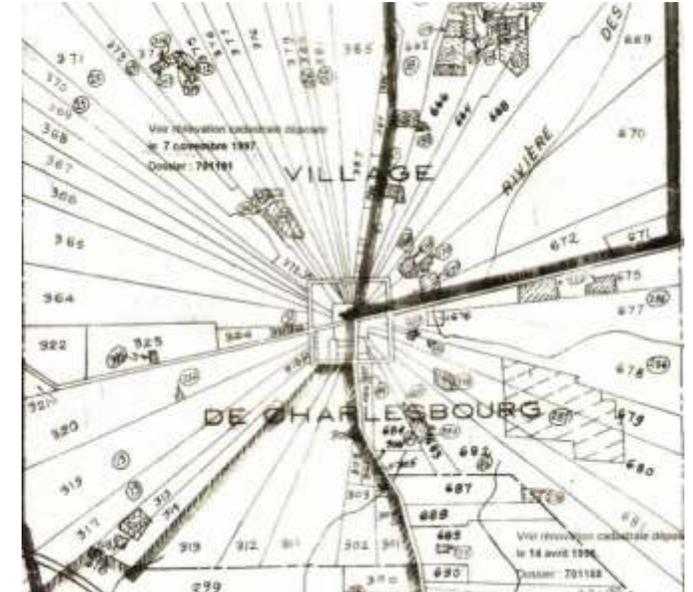


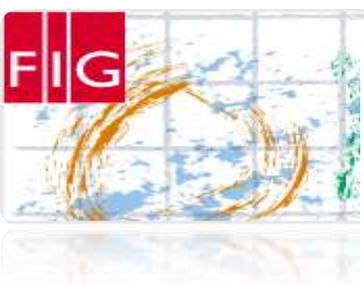
Excerpt of: National Atlas of Canada (1969)



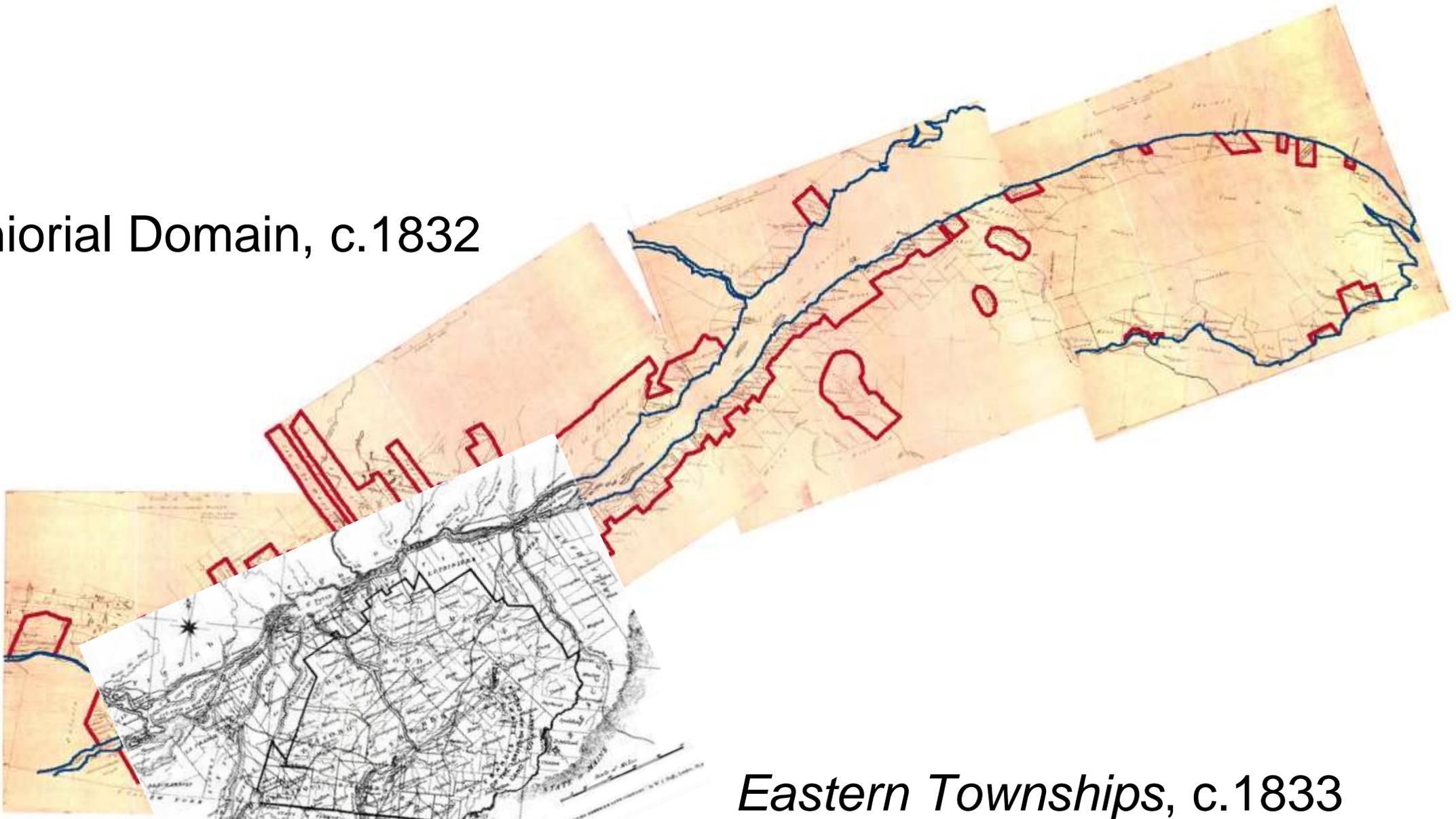
# SOCIO-DEMOGRAPHIC CONTEXT

- **Lower Canada in the first half of 19th Century**
  - Rural society with just four small cities
- **French land tenure system (semi-feudal)**
  - 220 “roture” (non-noble) seigneuries, with plenty of individual “censive” ownerships
  - Inherited from the Nouvelle-France royal regime
  - Located along the shores of the Saint-Lawrence River and few other important rivers.
- **Overpopulated Seigneuries**
  - Very high birth rate among French-speaking catholic population: from about 250k (est. 1806) to 1M (1861 census) inhabitants.
  - Montreal (1801 – 1861) = 9k to 90k inhabitants
  - Quebec (1790 – 1861) = 14k to 51k inhabitants

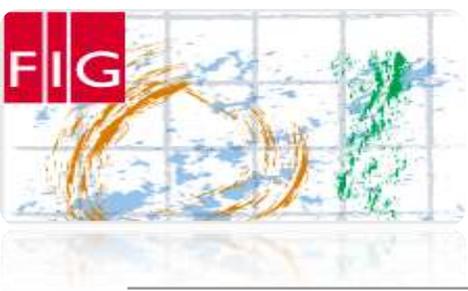




Seigniorial Domain, c.1832



*Eastern Townships, c.1833*

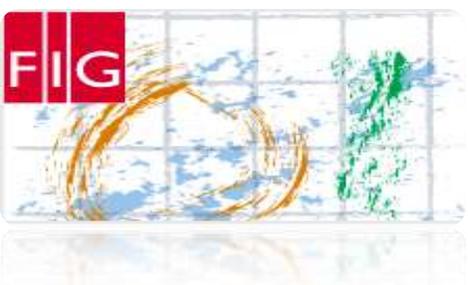


# SOCIO-DEMOGRAPHIC CONTEXT

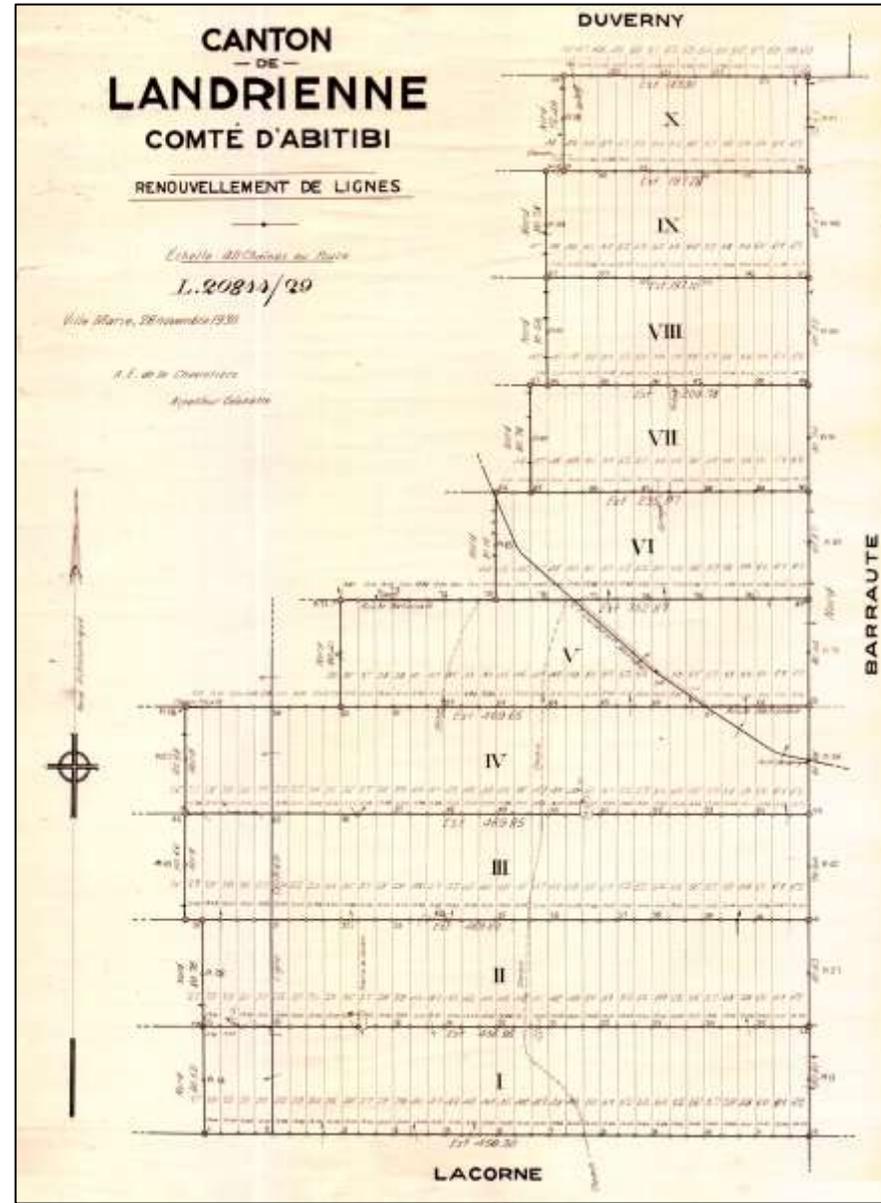
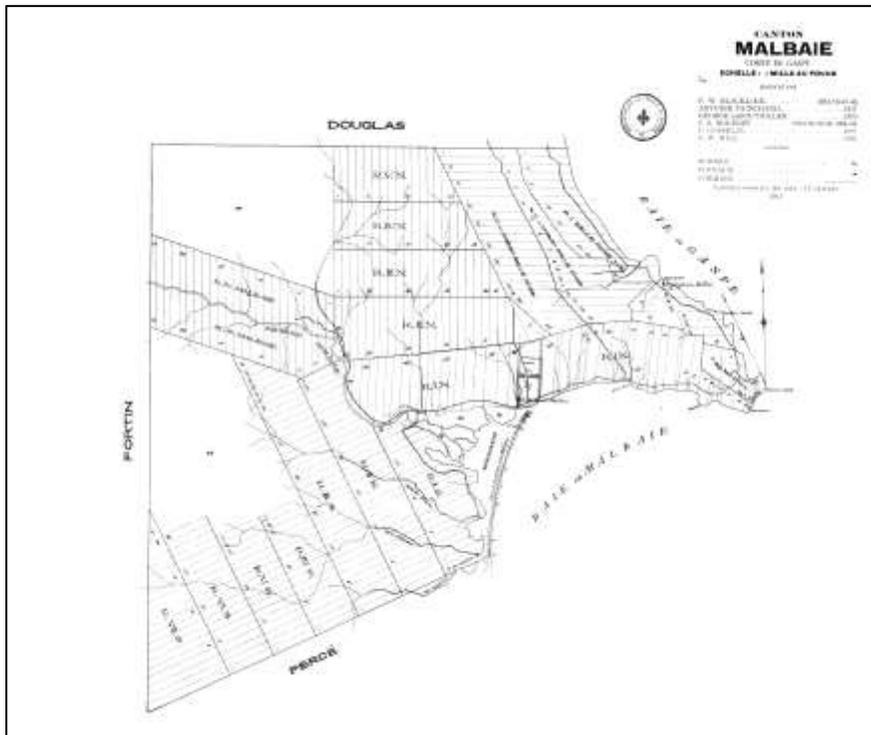
- **Since the Conquest (1759-63)**
  - *Royal Proclamation of 1763*
  - Weak British immigration in seigneuries; rather concentrated in cities
- **Loyalists, Military, and Colonists settled newly opened interior lands, behind seigneuries**
  - Common Law 'fee-simple' tenure in townships (forbidden to Catholics).
- **Colonial Authorities surveyed about 100 square-model townships (1791-1860)**
  - Inventory of Land Resources and Land Division

	13	14	15	16	17
		III			
	13	14	15	16	17
		IV			
	13	14	15	16	17

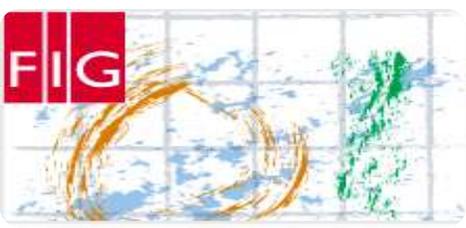
North 49° 55' West 41st



# Surveying Plans of Townships







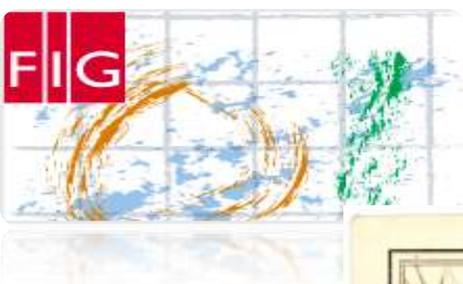
# TROUBLED SOCIOECONOMIC CONTEXT

- **Crown Land Grabbing by private Land Companies and Agents**
  - Corruption and discrimination
  - Source of undue profits
  - Speculation on new colonists
- **Frauds**
  - Double and triple forfeit sales
  - Occult/personal mortgages and land rights
  - Defective titles
- **Industrialisation and Colonisation**
  - Land and house expansion and intensive exploitation
  - Liberalize land transactions, improvements, for financial mobility of capital

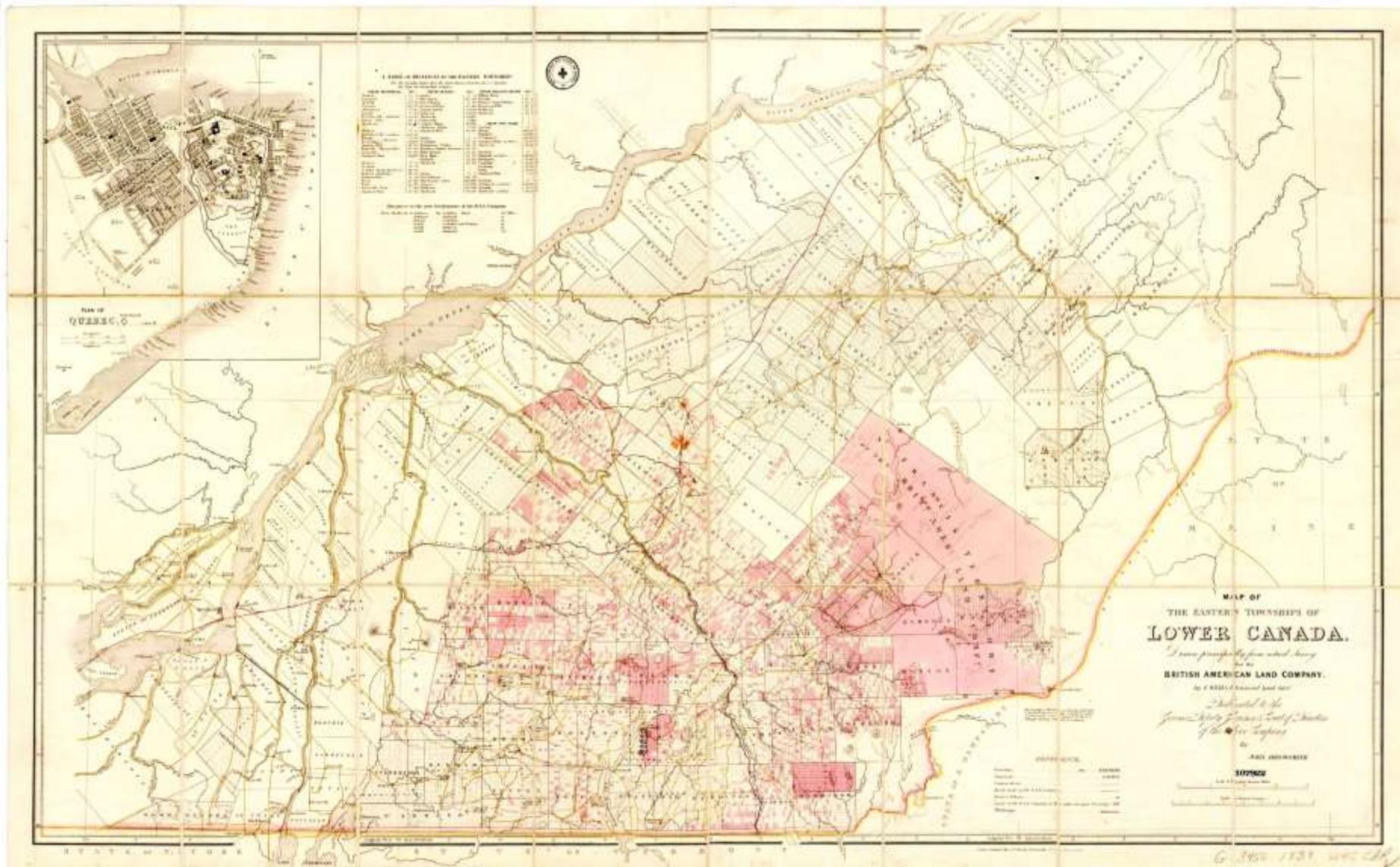
Barrier to  
Land Economy  
Development



Bibliothèque et Archives  
nationales du Québec



# British American Land Co., Eastern Townships, 1839





# TROUBLED LEGAL AND POLITICAL CONTEXTS

- **Parallel Legal Regimes: *Coutume de Paris* > *Civil Code* / *Common Law***
  - *Seigniorial tenure*, even in *three cities*, perceived as passive blockage
  - *Franc-alleu roturier* with *censive* tenure, versus *Free and Common Socage*
  - *Inheritance property*, versus *Alienation*, *i.e. commercial, transactional (deeds)*
  - Legislative Assembly struggled for responsible government and *access to lands*
  - *92 Resolutions* (1834 - demands for reforms) and *Rebellions* (1837-38)
- **Industrialisation, Roads, Canals, Railroads, Mines, and Urbanisation**
  - Protection of public investments in infrastructures (e.g. ranges, roads, bridges)
  - *Concessions of land*, mines, forests, hydraulic power on *Crown/Public Domain*
  - Sustain emerging *local administrations*, duties, responsibilities, and funding (cities: 1833, municipal counties: 1845, municipal towns and parishes: 1855)

**Dual  
Land Law  
Regimes**

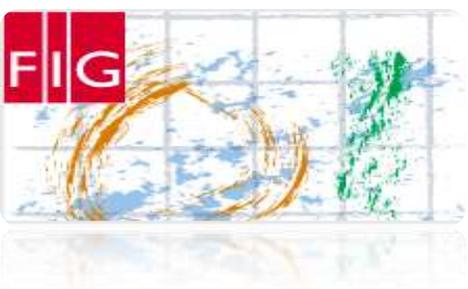
**Resources  
Exploitation**



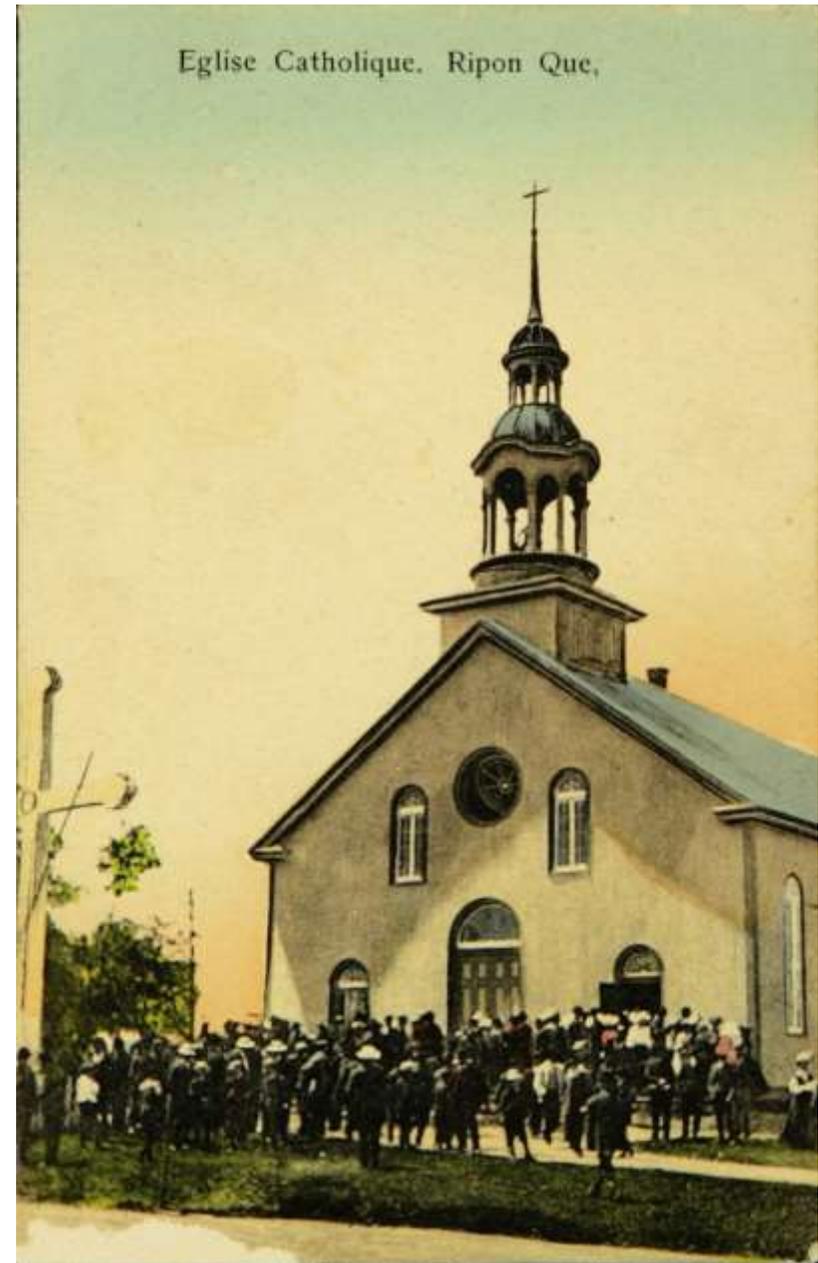
# NEEDS FOR A LAND REGISTRATION SYSTEM

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- **Needs for publicity of land and immovable property rights and legal obligations**
- **Needs for security of individual private rights, thus for economic development**
- **In order to secure new colonists' land ownership versus occult rights and frauds**
- **Regularisation of squatters' occupation.**
- **Socioeconomic conditions would favour progressive implementation of land-right registry offices in English-speaking counties of Lower Canada.**
- **Land Registry Offices established in neighbouring province of Upper Canada (Ontario) since 1795**
- **But the Law did not provide a standardized distinct identification system for each parcel-lot, neither official accurate maps to do so, only for land concession**



# Traditional Public Announcement of Land Inheritance or Transaction in Rural *Lower* *Canada*



Source: BAnQ, Collections « Images », Carte postale  
<http://www.banq.qc.ca/collections/images/notice.html?id=0002639724>



# ESTABLISHMENT OF LAND REGISTRY OFFICES

- In 1830, the Legislative Assembly enacted five registry offices in counties of the South of Eastern Townships region, along to the U.S. border.
  - Six other registry offices appear within few years; registers were only schedules.
- In 1841, the Act of the new constitutional government of United provinces of Canada, generalized registry offices to each county, in order to cover all settled territory.
  - A genuine “**Index to immovables**” (i.e. of “real estates”), for inscription of private acts, deeds, and mortgages concerning any particular lot, **appeared utopic**.
  - But an “**Index of names**” (i.e. a repertory book by parties’ names) alone became **quite unpractical** by two decades without identification of their properties.
- In 1845-46, two official inspection reports concluded to inefficiency due to:
  - Lack of money and resources
  - Clerical incompetencies,
  - Absence of an identification system of all parcel-lots

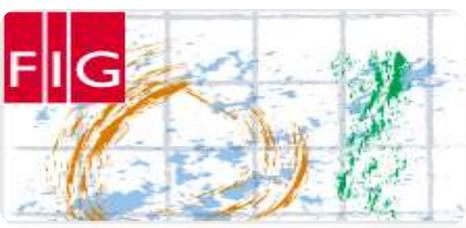




# UNIFICATION OF LAND TENURES AS FULL PROPERTY

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- **An operational system for registration of land rights**
  - A unique mode of land tenure, warrant of full property.
- **Seigniorial tenure was abolished (1854-1859)**
  - Both franc-allevé roturier and censive ownerships can be commuted in a kind of “fee simple”.
  - This type of “absolute property” was confirmed by the new *Civil Code* (1866).
- **Compensation of seigneurial rights and rents was assessed by commissioners (not surveyors)**
  - Production of an “abridged cadastral schedules of assessment”
  - This first tabular form of seigneurial cadastre, plans being not necessary for it, was produced for this unique purpose.



**No. 10.**  
**DES SEIGNEURIES DE LA COURONNE.**  
**CANADA, B. C.**  
 Procédés sous l'Acte Seignourial Refondu.  
  
**CADASTRE ABRÉGÉ**  
 DE LA  
**SEIGNEURIE DE NOTRE-DAME DES ANGES.**  
 APPARTENANT CI-DEVANT À L'ORDRE DES JÉSUITES.  
 Fait le 16 Mars, 1864, par HENRY JUDAH, Ecuyer, Commissaire.

**CADASTRE ABRÉGÉ DE LA SEIGNEURIE DE NOTRE-DAME DES ANGES. 3**

No. de l'Évaluation.	No. de l'Évaluation.	NOMS DES CENSITAIRES.	ÉTENDUE DE LA CONCESSION OU DU TERRAIN POSSÉDÉ.									Emplacement ou Lieu à l'usage, ou pour d'autres fins que ceux des dits Agraires.	Montant de la Revue Contractuelle à être payée par le Censitaire.	Valeur actuelle en l'éc.	
			FRONTS.			PROFONDEUR.			SÉCTION.						VALEUR.
			Arpents.	Poiches.	Poich.	Arpents.	Poiches.	Poich.	Arpents.	Poiches.	Poich.				
1		John James Nastitt <i>John Nastitt</i>	5	4	2							0 0 2½			
2		Théophile St. Jean	1 4	10	14							0 1 4			
3		Edouard J. Desbois	3	20	60							0 5 6			
4		James Douglas			61 10							0 5 7½			
5		François Poulin	5	40	20							0 1 10			
6		Do.	1	12 5	12 50							0 1 2½			
7		Messieurs du Séminaire	5 2 6	24	125 60							0 11 7			
8		Do.			4							0 0 4½			
9		Joseph Parant	5	7	3 30							0 0 4			
10		Alexandre Parent	2 9	16	4							0 0 4½			
11		Louis Grenier	9 9 9	9	5 55							0 0 10			
12		Alexis Gravel	1 2	66	75 20							0 7 4½			
13		Marie E. Chalifour	1 7 9	20 5	35 87 102							0 3 3½			
14		John Racey			49 30							0 4 7			
15		Louis Lortie	1	30	30							0 2 9			
16		H. N. Jones <i>Henry Jones</i>			19 75 125							0 1 10			
17		Edmund Willoughby	1 5 15	40	63 33 108							0 5 9½			
18		Sewell	5	40	20							0 1 10			
19		Jean Bte. Renaud			50							0 4 7½			
20		William Walker <i>Gov.</i>	1 5	40	60							0 5 6			
21		W. H. Anderson	2 6 16		100 61 128							0 9 4			
22		François X. Garnett, et.	7 9 17		12 75							0 1 2½			



# PUBLIC DEBATE OVER THE NEED FOR CADASTRAL MAPS

- With or without maps? Which kind? Which element should linked the map with the register?
- No parcel-lot plans available: transfers by heritage or “as seen”
- City, streets and road maps: too little scales
- Primitive surveying plans of townships: for concession purpose only
- Solution inspired by France and some German Kingdoms (e.g. Bavaria): a **middle-scale cadastral map** for complete **graphical representation**, **delimitation of shape**, and identification of each lot with assignation step by step of **distinct sequential number** within the same parish or township limits, joined to an official and mandatory register for property and rights transfer, **without fiscal valuation**.





# PROBLEMATIC QUESTIONS, IN DEBATE

- Which information data must be registered to fit the land publicity purpose?
- No standardized large- or middle-scale maps. Which **standards** needed?
- If any maps or plans at all, where were they? Which **quality** had they?
- Few maps showing parcel-lot numbering, out of surveyed townships...
- What would be the **sources** for good land property information: **legal documents** or **terrain observations**?
- How much does it may **cost**? Who shall pay for that? How to **fund** this operation?
- Who will be able to perform the **job**? How many **private surveyors** are ready, capable, and competent? How to train new necessary surveying **teams**?
- Complete sheet of uniform cadastral **map** drawn and paid under official mandate? or collection of **plans** submitted by each parcel-lot owner (a *mosaic*)?

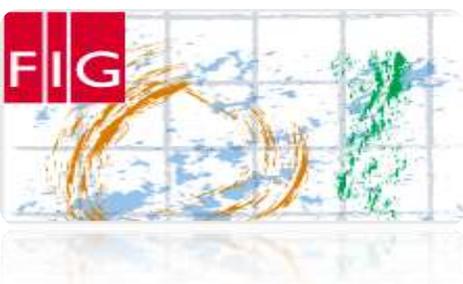
*Source: Bélanger (1986)*



# OFFICIAL INSTITUTION OF CADASTRE

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- In 1860, an Act for land registration required “correct plans” for the cadastre of any official locality (parishes, townships, villages, towns, cities, wards).
- A large surveying operation of “cadastration” involved:
  - land owners to present their titles and, after operation, to look over the cadastral plans displaying their property,
  - original surveying methods with modern instruments,
  - close collaboration between state-employed and private surveyors.
- In 1866, the first provincial *Civil Code Code of Lower Canada* enforced cadastral plans as the legal identification basis for registration of private land rights, securities, mortgages, obligations, in order to support the emerging real estate market.
- Opening of ten regional *Cadastre Bureaux*, with particular instructions to private surveyors for each mandate of cadastral operation in a locality.



# GENERAL INSTRUCTIONS – COMPILATION OF THE CADASTRE

## GENERAL INSTRUCTIONS<sup>1</sup>

*Concerning the cadastration of the cities, towns, parishes, townships, and incorporated villages in the Province of Quebec and respecting the preparation of the official plans and books of reference to be made in conformity to the provisions of the 37 chapter of the Revised Statutes of Lower Canada (68th, 69th, 70th, 71st, 72nd, 73rd, 74th, and 75th clauses), of the 25 chapter of the Act 32 Victoria, and of the 15th and 16th chapters of the Act 35 Victoria, of the Legislature of this Province. [Those provisions are reproduced in the Civil Code and the Revised Statutes of the Province of Quebec, 1888].*

The operations of the cadastre in the Province of Quebec, being undertaken with a view of furnishing the registrar of each registration division with a correct designation of all the landed properties comprised in the cities, towns, parishes, townships, and incorporated villages, or part of the same forming the said registration division, so as to be able to follow with regularity all the mutations and hypothecary transactions which take place therein, it follows that the duties of the persons charged with the making of this cadastre should consist in the construction of the plans and the preparation of the official books of reference, which should give (for the purposes hereinabove specified) as exact a description as possible of all the landed properties enclosed within the above mentioned territorial divisions.

These official plans and books of reference, to be prepared by the order, and under the direction of the Commissioner of Crown Lands, [now the Minister of Lands, Mines and Fisheries] conformably to the 69th clause of the 37th chapter of the Revised Statutes, [See article 5662, R. S. P. Q.] should comprise:—“ A correct plan of each “ city, town, incorporated village, parish, township, or part thereof, “ in each registration division, with a book of reference to each such “ plan, in which book shall be set forth:

“ 1st. A general description of each lot or parcel of land shown on “ the plan to which it refers;

(1) N. B.—The changes and additions made to these “ instructions ” are enclosed in brackets

“ 2nd. The name of the owner of each separate lot or parcel of “ land, or of any estate therein so far it can be ascertained, and

“ 3rd. Everything necessary to the right understanding of such plan for the purposes required;

“ And each separate lot or parcel of land, shown on the plan, shall “ be referred to in the said book by a number (of one single series) “ which shall be marked upon the plan, and entered in the said book, “ the Commissioner being authorized to adopt any means he thinks “ proper, to ensure the correctness thereof.”

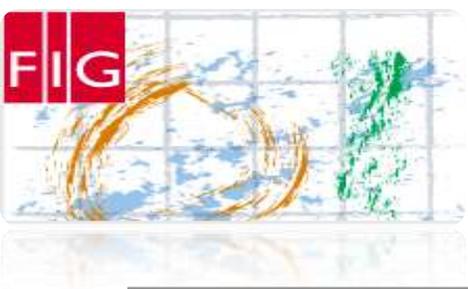
The execution of these documents requiring of necessity to be varied in form, according to the territorial divisions to which they have reference, in order to be more intelligible, it is proper to draw attention separately to the manner of proceeding to their preparation in each of these particular cases.

## ARTICLE I.

### *Of the operations of the cadastre in seigniorial parishes.*

The plans and documents which are to serve as the basis for the official plans and books of reference in these parishes are in the first place those indicated by the 72nd clause of the statute already cited, being the schedules, diagrams, and documents prepared by the Seigniorial Commissioners or under their direction [See article 5663, R. S. P. Q.]; in the second place, all the plans and *procès-verbaux* establishing the interior subdivision of the seigniories, and indicating the lines traced on the ground, dividing them one from the other; in the third place the information possessed by the registrars, as to the subdivision of the properties, and the valuation rolls prepared by the secretary-treasurers of the municipalities; finally, in the fourth place, (as the plans of the Seigniorial Commission do not indicate the divisions of the parishes civilly erected), the diagrams deposited in the department of Crown Lands, accompanying the description inserted in the proclamation establishing the civil erection of these parishes, together with the various documents relating to the surveys of the Province, complete the data to which the officers of the cadastre are first required to direct their attention.

The plans of the Seigniorial Commission, where any exist, having been reconstructed on the scale of the plans of the cadastre, 5 arpents to the English inch, the first care of the officers in charge of these



# CONCLUSION

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- **Cadastre Bureaux: surveying for cadastral mapping of existing localities**
  - Cadastral large- and middle-scale maps for lot identification and numbering
  - Cadastral large-scale plans for transfer or operation on individual parcel-lot
  - Book of Reference (technical description of each numbered parcel-lot)
- **Land Registry Offices, in each county (registration division) or so**
  - *Index to Immovables* (sheet by identification number for each parcel-lot)
  - *Index of Names* (of all persons mentioned in registered documents)
  - *Entry-Book* or *Deposit of Deeds* (for sequential transcription in the documents)



# CONCLUSION = NEW LEGAL LAND INSTITUTIONS

---

- 1830: Act to establish first land registry offices in five counties
- 1833: Incorporation of the Cities of Quebec and Montreal
- 1841: Act to generalize land registry offices over the settled territory
- 1845: *First Act on Local and County municipal authorities*
- 1845-46: Reports on deficiencies of land registry offices
- 1854-59: *Seignorial Act* for commutation of land rights and rents
- 1855: *Act for municipalities and roads*
- 1860: *Act for registration* system for land transactions (fit-for-purpose)
- 1866: *Civil Code*: merges both sorts of property rights
- 1867: Canadian Confederation; first “*cadastre originaire*” map drawn.